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(Geneva, September 24 to 27, 1968)

Proposals Concerning
the Organizational Rules of the New ICIREPAT

presented by
the Director of BIRPI

INTRODUCTION

1. The present document has been prepared by BIRPI after consultation with the Enlarged Transitional Steering Committee of the new ICIREPAT,⁽¹⁾ and the International Patent Institute, on March 30, 1968, at Geneva.
2. The Enlarged Transitional Steering Committee consists of the following seven countries: Germany (Federal Republic), Japan, Netherlands, Soviet Union, Sweden, United Kingdom, United States of America.
3. Consultations with the Enlarged Transitional Steering Committee and the International Patent Institute, it is recalled, were authorized by the Conference of Representatives of the Paris Union in its second ordinary session on December 21, 1967 (see BIRPI document CR/II/15, paragraph 22(b)).
4. The present document has been communicated, on April 11, 1968, to all member countries of the former ICIREPAT, that is, in addition to the seven countries referred to in paragraph 2, to the following fourteen: Australia, Austria, Canada, Czechoslovakia, Denmark, Finland, France, Hungary, Ireland, Israel, Mexico, New Zealand, Norway, Philippines.
5. These 21 countries were invited to make written comments on the proposals contained in the present document.
6. Any such comments will, in due course, be communicated by the Director of BIRPI to the members of the Executive Committee of the Paris Union.

(1) By "new" ICIREPAT is meant the ICIREPAT which is a Committee of Experts of the Paris Union in accordance with the decision of the Paris Union Conference of Representatives of December 21, 1967. By "former" ICIREPAT is meant the ICIREPAT prior to this decision.

7. Comments received not later than July 14, 1968, will be communicated to the members of the Executive Committee prior to the meeting of that Committee scheduled to start on September 24, 1968.

8. Comments received later than July 14, 1968, will be communicated to the Executive Committee in the course of its Fourth Ordinary Session (September 24 to 27, 1968).

9. The present document contains a draft for the Organizational Rules of ICIREPAT. The draft consists of a Preamble and 16 Articles. The Preamble and each article are accompanied by explanatory notes.

DRAFT
ORGANIZATIONAL RULES OF ICIREPAT

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PREAMBLE

The Executive Committee of the International Union for the Protection of Industrial Property (hereinafter referred to as "the Paris Union"),

Considering the decision of the second ordinary session of the Conference of Representatives of the Paris Union concerning the transformation of the Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (hereinafter referred to as "the former ICIREPAT") into a Committee of Experts of the Paris Union,

Considering the results of the consultations of the Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) with the Enlarged Transitional Steering Committee, the International Patent Institute, and the interested government authorities in charge of the grant of patents,

Hereby establishes the following Organizational Rules of ICIREPAT:

Notes

10. The second paragraph of the Preamble recalls the decision of the Paris Union Conference of Representatives of December 21, 1967 (see BIRPI document CR/II/15, paragraph 22).

11. The third paragraph refers to the consultations contemplated by the said decision of the Paris Union Conference of Representatives. These consultations are still taking place at the time of writing the present document. They will be completed before the matter is submitted to the September 1968 meeting of the Paris Union Executive Committee.

ARTICLE 1: NAME AND ABBREVIATION

(1) The name of the Committee shall be "Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices."

(2) The abbreviation of the name of the Committee shall be "ICIREPAT."

Notes

12. It is proposed that the abbreviation "ICIREPAT" be maintained but that the full name ("Committee for International Cooperation in Information Retrieval Among Examining Patent Offices") be changed to "Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices."

13. The addition of the words "Paris Union" would denote that the new ICIREPAT is a Committee of Experts of the Paris Union.

14. The deletion of the word "Examining" seems to be necessary since any member of the Paris Union, whether or not it has an examining system, may, subject to the proposed provisions of Article 2, be a member of the new ICIREPAT.

ARTICLE 2: MEMBERSHIP

(1)(a) Any member country of the Paris Union desiring to participate in the work of ICIREPAT, and pledging both to perform work in its own national Industrial Property (Patent) Office and to contribute to the work to be carried out in connection with ICIREPAT by the International Bureau, may, at any time, declare that it wishes to be considered as a member of ICIREPAT.

(b) The contribution to the International Bureau shall consist of money or services (particularly loaning specialists to the International Bureau), or both. The amount of the money and the volume of the services shall be at the discretion of each member and shall be specified and announced by each member in the regular session of the Executive Committee of the Paris Union for the subsequent year.

(2) Any member of ICIREPAT may, at any time, declare that it no longer considers itself a member of ICIREPAT.

(3) Declarations under paragraphs (1)(a) or (2) shall be made in writing and shall be addressed to the Director (General) of the International Bureau.

(4) Declarations shall take effect upon their receipt by the Director (General) of the International Bureau.

(5) The Director (General) of the International Bureau shall notify the members of ICIREPAT accordingly.

Notes

15. Membership in ICIREPAT would be open to members of the Paris Union, subject to two conditions, both intended as evidence of the country's readiness to effectively collaborate in

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Article 2- Notes (continued)

the practical tasks for the accomplishment of which ICIREPAT has been created. The two conditions are, firstly, that the country must expressly declare that it wishes to be considered as a member of ICIREPAT, and, secondly, that this declaration must be accompanied by a pledge that the country will (i) perform work in its own national Office for the purposes of ICIREPAT, and (ii) contribute to that part of the work of ICIREPAT which is to be carried out by the International Bureau. The declaration would have to be in writing, in order to make it formal. It could, for example, be expressed in the following terms: "The Government of X hereby declares that it wishes to be considered as a member of ICIREPAT and it hereby promises (i) to perform work in its own national Office for the purposes of ICIREPAT, and (ii) to contribute to the work to be carried out in connection with ICIREPAT by the International Bureau." This declaration itself would not have to specify what the contribution to the International Bureau would actually consist of. The nature and the amount or the extent of such contribution would have to be specified from year to year, in the light of the changing needs of the International Bureau and the changing possibilities of the contributing country. The contribution might consist of cash or of services, or both. Services could particularly consist of placing people at the disposal of the International Bureau, for example, one or two specialists for a certain number of months. Such contributions would have to be announced once every year in respect of the subsequent year. The announcement would have to be made to the yearly ordinary session of the Executive Committee of the Paris Union, that is, the body which, every year, considers the program of the International Bureau for the subsequent year.

16. Membership would be open to all Paris Union countries whether or not they have a system of examination of patent applications. Naturally, many of the activities of ICIREPAT would be of interest only to examining Offices. This is the principal reason for the proposal in Article 7, below, that whenever any given matter under consideration is of no direct concern to a member country because it has a patent system to which the matter is of no direct concern, such country would abstain from voting when decisions are taken on such matter. For example, non-examining Patent Offices would not vote in matters of direct interest only to examining Offices.

17. It seems desirable to permit any Paris Union country to become a member of ICIREPAT since the Paris Union includes countries with and without examination systems and, once ICIREPAT

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Article 2- Notes (continued)

becomes a Paris Union Committee, all members of that Union could be interested in its operations.

18. It is also in the interest of ICIREPAT itself to permit non-examining countries to participate in the work of ICIREPAT as some aspects of that work also concern non-examining countries, and their cooperation would greatly facilitate the work of examining Patent Offices. For example, the uniform presentation of patents is a matter which concerns all Offices and the benefits are obvious to all those--particularly the examining Offices--which have to input them into a system for later retrieval.

19. The reason for which a declaration would be required of each country is a practical one: countries which show no interest would not be invited to ICIREPAT meetings and would not be burdened with documents concerning the work of ICIREPAT apart from those documents which would be prepared for the Executive Committee or the Conference of Representatives of the Paris Union.

20. It is to be noted that the former ICIREPAT also considered as members four intergovernmental organizations (BIRPI, the International Patent Institute, the Council of Europe, EURATOM) and as associate member one non-governmental organization (the International Federation for Documentation).

21. As a Committee of the Paris Union, the new ICIREPAT can, of course, have only countries as members, and not organizations.

22. The participation of the four intergovernmental organizations, however, will continue, although in a different form:

(i) BIRPI, being the Secretariat of the Paris Union, is automatically the Secretariat of the new ICIREPAT and its working groups.

(ii) The role of the International Patent Institute--if the proposals outlined below are accepted--will become even more important than it has been in the former ICIREPAT.

(iii) The Council of Europe, EURATOM, and the International Federation for Documentation, together with additional intergovernmental and non-governmental organizations interested in the work of ICIREPAT, will, in the new structure, have observer status.

ARTICLE 3: OBJECTIVE

(1) The objective of ICIREPAT is to promote international cooperation in the field of the storage and retrieval of technical information needed in connection with the searching or examination of applications for patents, inventors' certificates, or other similar documents.

(2) "Storage and retrieval of technical information" are understood in their widest sense and include all supporting operations and all activities facilitating them, including in particular: abstracting, indexing, classification, translation, standardization of the form of documents and of search tools, processing of documents, communication and exchange of documents.

Note

23. It is the aim of ICIREPAT to promote the said cooperation among the maximum number of national and international authorities engaged in the receiving of applications concerning inventions, and possibly also the searching or examination of such applications, as well as the issuance and publication of patents, inventors' certificates, and other similar documents. "Similar documents" include certificates of utility (see Law No.1/1968 of France), utility models, and other "titles" for the protection of inventions or "petty inventions."

ARTICLE 4: MEANS OF ACTION

(1) ICIREPAT's means of action consist in conducting or promoting cooperative research, organizing actual cooperation, and making recommendations.

(2) Actual cooperation shall include, in particular, the exchange of searching tools and the mutual communication of the results of the practical application of the recommended procedures or exchanged material.

Note

24. The role of ICIREPAT would not be to oblige any of its members to do anything, but rather to try to persuade them through recommendations. Furthermore, it would itself conduct cooperative research to improve information retrieval and organize actual cooperation, for example, in the preparation of punched cards according to agreed principles and the exchange of such cards among interested Offices.

ARTICLE 5: CREATION OF WORKING GROUPS

(1) Certain of ICIREPAT's tasks shall be carried out in working groups called "Technical Committees."

(2) Other working groups with special tasks may also be established.

(3) The work of the Technical Committees and other special working groups shall be organized, supervised, and coordinated, by the "Technical Coordination Committee."

(4) The creation or abolition of Technical Committees and other special working groups shall be decided, according to needs, by the Technical Coordination Committee.

Notes

25. The present STACs (Standing Committees) would be among the Technical Committees. Other Technical Committees could be created as the need arose. The present ABCS (Advisory Board for Cooperative Systems) would be a working group having special tasks.

26. The Technical Coordination Committee would perform tasks similar to those of the former Steering Committee as far as tasks of a technical nature are concerned.

ARTICLE 6: COMPOSITION OF WORKING GROUPS

(1)(a) Membership in each Technical Committee shall be limited to those countries members of ICIREPAT whose Patent Offices perform tasks with which the Technical Committee is concerned.

(b) The rules of procedure of each Technical Committee shall outline the field of activity thereof and the criteria for membership therein.

(c) Each country shall be its own judge of the question whether it satisfies the criteria. If the said country decides that it does not satisfy such criteria, it may attend the meetings of the Technical Committees as an observer.

(2) Membership in special working groups shall be decided by the Technical Coordination Committee.

(3) The Technical Coordination Committee shall be composed of eight countries members of ICIREPAT. Six of them shall be the six whose national Offices have received, according to the latest available statistics, the greatest number of applications for patents or inventors' certificates per year. The other two shall be co-opted from among the other members of ICIREPAT by the said six. Co-optation would be effective for approximately two years and could be renewed.

Notes

27. As to the power of establishing rules of procedure, see Article 14.

28. According to the proposed criteria, the six ex officio members, at the present time, of the Technical Coordination Committee would be: France, Germany (Fed. Rep.), Japan, the Soviet Union, the United Kingdom, and the United States of America, provided they all make the pledge and the declaration required under Article 2. In co-opting the other two members, the six ex officio members would presumably take into account the degree of participation in the work of ICIREPAT. Although co-optation could be renewed, it is to be presumed that normally it will be carried out in a way which would secure a rotation among the members.

ARTICLE 7: VOTING

(1) Each country member of ICIREPAT shall have one vote.

(2) In matters of no direct concern to member countries having a certain patent system, such countries shall abstain from voting.

Notes

29. The rule contained in paragraph (2) would apply to ICIREPAT itself and any working group of ICIREPAT.

30. Each country will be its own judge of the question whether its patent system is such that it has to abstain from voting on any given question.

31. The expression "direct concern" is used in order to underline that a peripheral concern--which could almost always be alleged--does not suffice for voting rather than abstaining.

32. For example, in matters concerning examination of applications as to patentability, countries having no examination system would have to abstain.

ARTICLE 8: PROGRAM AND BUDGET

(1) The draft program of ICIREPAT shall, on the basis of the proposals of the Technical Coordination Committee-- which shall take account of the wishes of ICIREPAT--be drawn up by the Director (General) of the International Bureau.

(2) The program shall be established by the competent organs of the Paris Union.

(3) Expenses of the International Bureau connected with ICIREPAT shall be covered from the voluntary contributions of the members of ICIREPAT and, to the extent and under the conditions authorized by the competent organs of the Paris Union, from the budget of the Paris Union.

Note

33. "Competent organs" means at present the Swiss Government, the Conference of Representatives, and the Executive Committee. When the structural reform decided at the Stockholm Conference comes into force, "competent organs" will mean the Assembly and the Executive Committee.

ARTICLE 9: OFFICERS

(1) ICIREPAT and each working group shall have a chairman and a vice-chairman.

(2) The chairman and the vice-chairman of ICIREPAT and the chairman and vice-chairman of the Technical Coordination Committee shall be elected by ICIREPAT and the Technical Coordination Committee respectively.

(3) The chairmen and vice-chairmen of the Technical Committees and of special working groups shall be appointed by the Technical Coordination Committee.

(4) Technical Committees and special working groups may elect rapporteurs.

(5) Officers must be representatives of member countries of ICIREPAT or of the International Patent Institute. In the latter case, the representative must be the national of a member country of the Paris Union.

(6) Officers shall be in office for approximately three years. They may be re-elected or reappointed for successive terms. The details shall be provided for in the rules of procedure of the competent bodies.

Notes

34. The proposed system corresponds to the practice of the former ICIREPAT.

35. The main task of rapporteurs would be to report on the work of the body of which they are rapporteurs.

36. To allow the representatives of an intergovernmental organization--in this case the International Patent Institute--to be officers is an unusual measure. It does, however, appear to be justified in the present case since the work of the International Patent Institute is, in many respects, very similar to the work of an examining Patent Office.

ARTICLE 10: SECRETARIAT

(1) The Director (General) of the International Bureau or any staff member designated by him shall be ex officio secretary of ICIREPAT or any of its working groups.

(2) The Director (General) of the International Bureau shall, in execution of the approved program and within the limits of the approved budget, be responsible for the execution of those aspects of the ICIREPAT program which are within the competence of the International Bureau.

Note

37. The provision corresponds to established practice and complies with the requirements of the Stockholm Act of the Paris Convention.

ARTICLE 11: MEETINGS

(1) In principle, ICIREPAT shall have an ordinary session each year, preferably at the same place as, and right before, the ordinary annual session of the Executive Committee of the Paris Union.

(2) Meetings of ICIREPAT or any of its working groups shall be convened by the Director (General) of the International Bureau after consultation with the chairman in office of the interested body.

(3) The same shall apply to the establishment of the agenda of each meeting.

(4) The competent chairman may himself take the initiative of consulting with the Director (General) of the International Bureau on the matters referred to in the preceding paragraphs.

Note

38. The provision corresponds to established practice in comparable situations.

ARTICLE 12: REPORTING ON ACTIVITIES

The Director (General) of the International Bureau shall report each year to the competent organs of the Paris Union on the accomplishments and proposed plans of ICIREPAT.

Notes

39. As to the meaning of "competent organs," see the note on Article 8.

40. The provision corresponds to established practice and complies with the requirements of the Stockholm Act of the Paris Convention.

ARTICLE 13: INTERGOVERNMENTAL
AND NON-GOVERNMENTAL ORGANIZATIONS

(1) Interested intergovernmental and non-governmental organizations may be invited as observers to meetings dealing with matters of concern to them.

(2) The working agreement between the International Bureau and the International Patent Institute shall provide for the role which that Institute may wish to assume in the work of ICIREPAT. The details of such agreement shall be communicated to the members of ICIREPAT.

Notes

41. The Director of BIRPI shall endeavor to conclude a working agreement with the International Patent Institute which would provide for close cooperation between the International Bureau and the International Patent Institute in all matters concerning ICIREPAT.

42. It is proposed that the agreement include, in particular, provisions to the following effect (provided, of course, that the International Patent Institute agrees):

- (i) The International Patent Institute will be invited to all meetings of ICIREPAT and its working groups.
- (ii) The International Bureau and the International Patent Institute will consult with each other at least once a year on the program of ICIREPAT.
- (iii) In any meeting of ICIREPAT and its working groups, the representatives of the International Patent Institute will sit together with the representatives of the International Bureau, and will be entitled to participate in all the discussions.

ARTICLE 14: RULES OF PROCEDURE

(1) ICIREPAT shall establish its own rules of procedure, subject to these Organizational Rules.

(2) Each working group shall establish its own rules of procedure, following, wherever applicable, the rules of procedure of ICIREPAT, subject to approval by the Technical Coordination Committee.

Note

43. The rules of procedure would be established by ICIREPAT in its first session held after January 1, 1969 (see Article 16(1)(a)), and by each working group in its first meeting held after the said date. The rules of procedure of any working group would enter into force on a provisional basis when adopted, but would be subject to approval by the Technical Coordination Committee.

ARTICLE 15: AMENDMENT OF THE ORGANIZATIONAL RULES

These Organizational Rules may be amended by the Executive Committee of the Paris Union according to the rules governing the amendment of the rules of procedure of that Committee.

Note

44. The Rules of Procedure of the Executive Committee of the Paris Union require that the decision be made by a two-thirds majority, abstentions not being considered as votes (see Article 10 of the said Rules of Procedure; BIRPI document CEP/III/1, Annex).

ARTICLE 16: TRANSITIONAL PROVISIONS

(1)(a) Countries whose Patent Offices were members of the former ICIREPAT shall be considered members of ICIREPAT until December 31, 1968.

(b) Beyond that date, they will be considered members only after they have made the pledge referred to in Article 2(1)(a).

(2) Until the entry into force of the Convention establishing the World Intellectual Property Organization, the term "International Bureau" refers to BIRPI and the term "Director (General)" refers to the Director of BIRPI. After such entry into force, these terms shall, respectively, also refer to the International Bureau established by the said Convention and to the Director General of the said Organization.

Note

45. The voluntary contributions to the International Bureau would normally have to be specified in September of each year in respect of the next calendar year, but since September 1968 will be too soon (as it is only then that the present draft will be discussed), it will be necessary for the contributions for 1969 to be specified at the same time as the pledge referred to in paragraph (1)(b) is made.

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