

WIPO



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

GENEVA

BIRPI

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
COORDINATION COMMITTEE**

**First Ordinary Session
Geneva, September 21 to 29, 1970**

HEADQUARTERS AGREEMENT

Report by the Director of BIRPI

SUMMARY

With this document, the Director of BIRPI submits to the WIPO Coordination Committee the draft headquarters agreement and arrangements for its implementation which he has negotiated with the Swiss authorities.

1. Under the terms of Article 12(2) of the Convention Establishing the World Intellectual Property Organization (WIPO) of July 14, 1967, the Organization shall conclude a headquarters agreement with the Swiss Confederation. According to paragraph (4) of the same Article, the Director General may negotiate such an agreement and, after approval by the Coordination Committee, conclude and sign it on behalf of the Organization.
2. Pursuant to the transitional provision of Article 21(1) of the WIPO Convention, the Director of BIRPI, on behalf of WIPO, has negotiated a draft headquarters agreement with the Swiss Federal Political Department. The draft headquarters agreement is accompanied by draft arrangements for its implementation. Both drafts are attached to the present document for submission to the Coordination Committee (Annexes I and II).
3. The drafts submitted to the Coordination Committee are fundamentally in conformity with the agreements and arrangements for their implementation which the Swiss Federal Council has concluded with other intergovernmental organizations having their headquarters in Geneva. They appear to give WIPO the necessary guarantees which will enable it to carry out its tasks independently and in the best possible conditions.
4. If the Coordination Committee approves the attached drafts, they will still be submitted to the Swiss Federal Council and then signed by the representative of the Swiss Government and by the Director General of WIPO. It would be advisable for the Coordination Committee to authorize the Director General of WIPO to accept, at that stage of the proceedings, any further amendments that might prove to be necessary, in particular those that might be proposed by the Swiss authorities, provided they are of minor importance.
5. The Coordination Committee is requested to study the draft headquarters agreement and draft arrangements for the implementation of the agreement and to approve them; it is further requested to authorize the Director General of WIPO to accept such amendments of minor importance as may still prove necessary.

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ANNEX I

DRAFT

A G R E E M E N T

between

the Swiss Federal Council and the World Intellectual Property Organization to determine the legal status in Switzerland of that Organization

THE SWISS FEDERAL COUNCIL

of the one part, and

THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

of the other part,

desiring to enter into an agreement for the purpose of determining the legal status in Switzerland of the World Intellectual Property Organization, have agreed upon the following provisions:

Article 1

Freedom of Action of WIPO

1. The Federal Council shall guarantee to the World Intellectual Property Organization (hereinafter designated as "the Organization") the autonomy and freedom of action to which it is entitled as an international organization.

2. In particular, it shall grant to the Organization and to its members in their relations with the Organization absolute freedom to hold meetings, including freedom of discussion and decision.

Article 2

Status

The Federal Council acknowledges the international status and the legal capacity of the Organization.

Article 3

Immunities and Privileges

The Organization shall enjoy such immunities and privileges as are customarily granted to international organizations.

Article 4

Inviolability

1. The buildings or parts of buildings and land which, whoever may be the owner thereof, are used for the purposes of the Organization shall be inviolable. No agent of the Swiss public authorities may enter therein without the express consent of the Organization. Only the Director General of the Organization or his duly authorized representative shall be competent to waive such inviolability.

2. The archives of the Organization and, in general, all documents intended for its official use, belonging to it or in its possession, shall be inviolable at all times and in all places.

3. The Organization shall exercise supervision of and police power over its premises.

Article 5

Immunity from Jurisdiction and in respect
of Other Measures

1. The Organization shall enjoy immunity from criminal, civil and administrative jurisdiction, save in so far as such immunity has been formally waived by the Director General of the Organization or his duly authorized representative. The insertion in any contract of a clause instituting the jurisdiction of a Swiss ordinary court shall constitute a formal waiver of immunity. However, unless expressly stated to the contrary, such waiver shall not extend to measures of distraint.

2. The buildings or parts of buildings, land and property belonging to the Organization or used by it for its own purposes, whether belonging to it or not, may not be subjected to search, requisition, seizure or measures of distraint.

Article 6

Communications

1. The Organization shall benefit, in respect of its official communications, from treatment at least as favorable as that which is granted to other international organizations in Switzerland, in so far as it is compatible with the International Telecommunication Convention.

2. The Organization shall have the right to use codes for its official communications. It shall also have the right to send and receive correspondence by duly identified couriers or bags enjoying the same immunities and privileges as diplomatic couriers and bags.

3. Official correspondence and other official communications of the Organization, when duly identified, may not be subjected to censorship.

Article 7

Publications

The importation and exportation of publications of the Organization shall not be subject to any restriction.

Article 8

Tax Arrangements

1. The Organization, its assets, income and other properties shall be exempt from direct Federal, cantonal and communal taxes. With regard to buildings, however, such exemption shall apply only to those owned by the Organization and occupied by its services, and to income deriving therefrom. The Organization shall not be subject to taxation on the rent it pays for premises rented by it and occupied by its services.

2. The Organization shall be exempt from indirect Federal, cantonal and communal taxes. With regard to the Federal turnover tax included in prices or separately charged, exemption shall apply only to articles purchased for the official use of the Organization, provided that the amount invoiced for one and the same purchase exceeds 100 Swiss francs.

3. The Organization shall be exempt from all Federal, cantonal and communal dues, except dues charged as the price of actual services rendered.

4. Where appropriate, the exemptions mentioned above may take the form of reimbursement at the request of the Organization and according to a procedure to be determined by the Organization and the competent Swiss authorities.

Article 9

Customs Arrangements

The treatment by customs authorities of articles intended for the Organization shall be governed by the customs regulations of the Federal Council applicable to international organizations, the said regulations being an integral part of the present Agreement.

Article 10

Advances by Switzerland

1. Switzerland shall grant advances if the working capital fund of the Organization or of any of the Unions is insufficient. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between Switzerland and the Organization.

2. As long as it remains under the obligation to grant advances, Switzerland shall have an ex officio seat on the Coordination Committee and on the Executive Committees of the Unions.

3. Switzerland and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

Article 11

Free Disposal of Funds

1. The Organization may receive, hold, convert and transfer any funds, gold, currency, cash and other transferable securities, and dispose freely thereof both within Switzerland and in its relations with foreign countries.

2. This Article shall also apply to member States in their relations with the Organization.

Article 12

Freedom of Access and Residence

1. The Swiss authorities shall take all the necessary steps to facilitate the entry into, departure from and residence in Swiss territory for all persons, irrespective of their nationality, who are to attend the Organization in an official capacity, namely:

- (a) representatives of member States;
- (b) the Director General and the staff of the Organization;
- (c) any other person, regardless of his nationality, who is to attend the Organization in an official capacity.

2. All measures concerning the Federal police control of aliens and intended to restrict the entry of foreigners into Switzerland or to control the conditions of their residence shall have no effect on the persons referred to in this Article.

Article 13

Status of Representatives of Members of the Organization and of the Unions

The representatives of members of the Organization and of the Unions attending general assemblies, conferences and all other meetings shall enjoy the following privileges and immunities in Switzerland:

- (a) inviolability of the person and place of residence, and of all articles belonging to the party concerned;
- (b) immunity from arrest and imprisonment and, with regard to acts accomplished by them in the discharge of their duties, including words spoken and writings, from any jurisdiction;

- (c) customs facilities, granted in accordance with the customs regulations of the Federal Council applicable to international organizations;
- (d) the same immunities and facilities concerning their personal baggage as those granted to representatives to other intergovernmental organizations in Switzerland;
- (e) the right to use codes in official communications or to receive or send documents or correspondence by means of couriers or duly sealed diplomatic bags;
- (f) exemption, for themselves and their spouses, from all measures restricting immigration, all registration formalities for aliens and all national service obligations;
- (g) exemption from restrictions relating to freedom of exchange on the same terms as those granted to representatives of foreign governments on official missions.

Article 14

Status of the Director General and of Certain Categories of Officials

1. The Director General of the Organization and those categories of officials designated by him with the consent of the Federal Council shall enjoy such privileges and immunities, exemptions and facilities as are granted to diplomatic agents in accordance with the law of nations and international custom.

2. Customs privileges and facilities shall be granted in accordance with the customs regulations.

Article 15

Immunities and Facilities Granted to All Officials

Officials of the Organization, whatever their nationality, shall enjoy immunity from any jurisdiction for acts accomplished in the discharge of their duties, including words spoken and writings, even after such persons have ceased to be officials of the Organization.

Article 16

Immunities and Facilities Granted
to Non-Swiss Officials

Officials of the Organization who do not have Swiss nationality shall:

- (a) be exempt from all obligations relating to national service in Switzerland;
- (b) together with their spouses and dependent members of their families, not be submitted to any provisions restricting immigration and formalities concerning the registration of aliens;
- (c) enjoy, with respect to exchange facilities, the same privileges as those granted to the officials of other international organizations;
- (d) together with the members of their families and their household staff, benefit from the same repatriation facilities as officials of other international organizations;
- (e) enjoy the customs facilities provided by the customs regulations of the Federal Council for international organizations;
- (f) enjoy exemption from all Federal, cantonal and communal taxes on salaries, fees and allowances paid to them by the Organization. Capital payments due in whatever circumstances by a pension fund or provident institution within the meaning of Article 18 of the present Agreement shall also, at the time of payment, be exempt in Switzerland from any tax on capital or income; the same shall apply to any payments which may be made to agents, officials or employees of the Organization by way of indemnity for sickness, accidents, etc.

Article 17

Officials of WIPO, BIRPI and UPOV

1. No provision of the present Agreement shall restrict the fulfilment by officials of the Organization of official duties within the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI) and the Union for the Protection of New Plant Varieties (UPOV).

2. The privileges and immunities of officials performing duties mentioned under paragraph (1) above shall be governed by the present Agreement.

Article 18

Pension Funds and Special Funds

1. Any pension fund or provident institution acting officially for the benefit of officials of the Organization shall have legal capacity in Switzerland in so far as it complies with the form laid down by Swiss law for such institutions. It shall enjoy, to the extent that it acts for the benefit of such officials, the same exemptions, immunities and privileges as the Organization itself.

2. Funds and foundations, whether having legal personality or not, administered under the auspices of the Organization and allocated to the achievement of its official objectives, shall benefit from the same exemptions, immunities and privileges as the Organization itself with regard to their movable property.

Article 19

Social Security

The Organization shall be exempt from all compulsory contributions to general social security institutions such as compensation funds, unemployment benefit funds, accident insurance, etc., on the understanding that the Organization shall, as far as possible and on terms to be agreed upon, affiliate to the Swiss insurance schemes those of its agents who do not benefit from equivalent social protection.

Article 20

Purpose of Immunity

1. The privileges and immunities provided for in the present Agreement are not established for the personal benefit and convenience of officials of the Organization. Their purpose is solely to ensure, in all circumstances, the freedom of action of the Organization and the complete independence of its agents.

2. The Director General of the Organization shall have the right and the duty to waive the immunity of any official when he considers that such immunity is hindering the normal course of justice, and that it is possible to take such action without prejudicing the interests of the Organization. In respect of the Director General himself, the Coordination Committee shall have the power to waive immunity.

Article 21

Prevention of Abuse of Privileges

The Organization and the Swiss authorities shall cooperate at all times to facilitate the satisfactory administration of justice, ensure the observance of police regulations and prevent any abuse of the privileges, immunities and facilities provided for in the present Agreement.

Article 22

Identification Cards

1. The Federal Political Department shall transmit to the Organization an identification card, with a photograph of the holder, for each official and each dependent member of his family living with him and having no gainful occupation. This card shall be authenticated by the Federal Political Department and by the Organization and shall serve to identify the holder for the purposes of any Federal, cantonal or communal authority.

2. The Organization shall regularly communicate to the Federal Political Department the list of the officials of the Organization, and of the members of their families, indicating, in respect of each, date of birth, nationality, domicile in Switzerland, and category or class of employment.

Article 23

Private Disputes

The Organization shall take the necessary steps to ensure the satisfactory settlement of:

- (a) any disputes arising from contracts to which the Organization is party and any other disputes relating to points of private law;
- (b) any disputes involving any official of the Organization who, by virtue of his official position, benefits from immunity, where immunity has not been waived in accordance with the provisions of Article 20.

Article 24

Non-Responsibility of Switzerland

Switzerland shall not, on account of the Organization's activities on its territory, assume any international responsibility for acts or omissions of the Organization or for acts committed or omissions made by its officials within the scope of their official functions.

Article 25

Security of Switzerland

1. Nothing in this Agreement shall affect the right of the Swiss Federal Council to apply appropriate safeguards in the interests of the security of Switzerland.

2. Should the Swiss Federal Council consider it necessary to apply the provisions of the first paragraph of the present Article, it shall, as promptly as circumstances permit, establish contact with the Organization in order to agree jointly upon such measures as may be necessary to protect the interests of the Organization.

3. The Organization shall cooperate with the Swiss authorities to prevent any prejudice to the security of Switzerland on account of any activity of the Organization.

Article 26

Implementation of the Agreement by Switzerland

The Federal Political Department is the Swiss authority responsible for the application of this Agreement.

Article 27

Jurisdiction

1. Any difference of opinion concerning the application or interpretation of this Agreement which direct consultations between the parties have failed to settle may be submitted, by either party, for consideration by a court of arbitration composed of three members.

2. The Swiss Federal Council and the Organization shall each designate one member of the court.

3. The members thus designated shall choose their president.

4. In the event of disagreement between the members as to the choice of the president, the latter shall be designated by the President of the International Court of Justice at the request of the members of the court of arbitration.

5. The court shall establish its own rules of procedure.

Article 28

Entry into Force

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Article 29

Amendment of the Agreement

1. This Agreement may be revised at the request of either party.

2. In such a case, the parties shall jointly examine any changes proposed to be made in the provisions of the present Agreement.

3. Should the negotiations fail to result in agreement within a period of one year, the present Agreement may be denounced by either party, subject to a notice of two years.

Done and signed in two copies at Geneva, on

For the Swiss Federal Council:

For the World Intellectual
Property Organization:

Provisional Translation.
Original: French

Annex II follows

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ANNEX II

DRAFT

Arrangements for the Implementation
of the Agreement concluded between the
SWISS FEDERAL COUNCIL
and the
WORLD INTELLECTUAL PROPERTY ORGANIZATION
to determine the legal status in Switzerland
of that Organization

Article 1

Visas

In order to facilitate the entry into Switzerland of persons mentioned in Articles 12, 13, 14 and 16 of the Agreement, Swiss embassies and consulates shall be given standing instructions to issue visas, in all cases where entry visas are required, upon presentation by the persons concerned of their passports or other, equivalent identity or travelling documents, together with sufficient evidence of their holders' status in relation to the Organization.

Swiss embassies and consulates shall have instructions to grant visas without delay and without requiring the personal appearance of the applicants or the payment of fees.

Article 2

Status of Representatives of Members of
the Organization and of the Unions

In cases where liability for a given tax is subject to the taxpayer's residence in Switzerland, the periods spent in Switzerland, in the discharge of their duties, by the representatives of members of the Organization within its main and subsidiary bodies and at conferences and meetings convened by it shall not be considered periods of residence.

Article 3

Immunities and Facilities
Granted to Non-Swiss Officials

1. Such officials shall be exempt from Federal, cantonal and communal taxes on income earned by them from sources outside the Swiss Confederation.
2. Customs examination of the baggage of such officials shall be reduced to a strict minimum.

Article 4

Consultants

Persons of other than Swiss nationality who are called upon by the Organization to act as consultants and who devote all their time to such activity shall be treated as officials of the Organization for the duration of their duties.

Article 5

Military Service of Swiss Officials

1. The Director General of the Organization shall communicate to the Swiss Federal Council a list of the officials of Swiss nationality subject to military service obligations.
2. The Director General and the Swiss Federal Council shall jointly draw up a list of a limited number of officials of Swiss nationality whose activities shall entitle them to dispensation.
3. In the event of the mobilization of other Swiss officials, the Organization may request the Federal Political Department to grant provisional exemption or to take whatever other measures may be appropriate.

Article 6

Entry into Force

These Arrangements shall enter into force at the same time as the Headquarters Agreement.

Article 7

Modification of these Arrangements

1. The present Arrangements may be revised at the request of either party.

2. In such a case, the parties shall jointly examine any changes proposed to be made in the provisions of the present Arrangements.

3. Should the negotiations fail to result in agreement within a period of one year, the present Arrangements may be denounced by either party, subject to a notice of two years.

For the Swiss Federal Council:

For the World Intellectual
Property Organization:

/Provisional Translation.
Original: French/

/End of Annex and of document/

