

RECORDS
OF THE NAIROBI DIPLOMATIC CONFERENCE
FOR THE ADOPTION OF A TREATY
ON THE PROTECTION OF THE OLYMPIC SYMBOL
1981



WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO)**

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EDITOR'S NOTE

The Records of the Nairobi Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic symbol, held in Nairobi, Kenya, from September 24 to 26, 1981, contains all the important documents relating to that Conference which were issued before, during and after it.

The final text--that is the text as adopted and signed--of the Nairobi Treaty appears on the right-hand (odd number) pages of the first part of this volume (up to page 19). On the opposite, left-hand (even number) pages (up to page 18) appears the text of the draft of the Nairobi Treaty as presented to the Nairobi Diplomatic Conference. In order to facilitate the comparison of the draft with the final text, these pages do not contain in full the text of the draft but merely indicate whether the text of the draft is identical with the final text, and if so indicates the differences.

The part entitled "Conference Documents" (pages 25 to 64) contains two series of documents distributed before and during the Diplomatic Conference, documents series OS/DC and documents series OS/DC/INF. Those documents contain, in particular, all the written proposals for amendments submitted by delegations of States. Such proposals are frequently referred to in the summary minutes and are indispensable for the understanding of the latter.

The Rules of Procedure of the Nairobi Diplomatic Conference appear on pages 28 to 49.

The part entitled "Summary Minutes" (pages 67 to 117) contains the minutes of the Conference. They were written in their provisional form by the International Bureau on the basis of transcripts of the tape recordings which were made of all interventions. The transcripts are preserved in the archives of the International Bureau. The provisional minutes were then made available to the speakers with the invitation to make suggestions for changes where desired. The final minutes, published in this volume, take such suggestions into account.

The part entitled "Participants in the Conference" (pages 121 to 143) lists the individuals who represented governments of States (pages 121 to 140), intergovernmental organizations other than the World Intellectual Property Organization (pages 141 and 142), one international non-governmental organization (page 141) and the World Intellectual Property Organization (pages 141 and 142). This part also lists the officers of the Nairobi Diplomatic Conference (page 143).

The part entitled "Post-Conference Documents" (page 147) contains the documents of the series OS/PCD. It refers to the documents containing the summary minutes, the final text of which is reproduced in full from page 67 to page 117.

The last part of these Records, entitled "Indexes," contains five indexes.

The first two indexes (pages 153 to 166) relate to the subject-matter of the Nairobi Treaty: the first one (pages 153 to 156) gives all the relevant references to each provision of the Nairobi Treaty, such as text of the draft provision, the discussion in the Conference, the proposals for amendments; the second one (pages 157 to 166) is a catchword index. The three other indexes are alphabetical indexes of States (pages 167 to 174), organizations (page 175) and individuals which or who participated in the Diplomatic Conference.

Page 152 contains an explanatory note which gives all indications necessary to the consultation of the above-mentioned indexes.

Geneva, October 1984

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* This List of Articles is added for the convenience of the reader. It does not appear in the signed text of the Treaty.

DRAFT [document OS/DC/3]

CHAPTER I
SUBSTANTIVE PROVISIONS

Article 1: Obligation of States

Any State party to this Treaty shall be obliged to prevent, subject to Articles 2 and 3, the registration as a mark and the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol, except with the authorization of the International Olympic Committee.

Article 2: Exceptions to the Obligation

(1) The obligation provided for in Article 1 shall not bind any State party to this Treaty in respect of:

(i) [Same as in the final text, except that the draft does not contain, after the word "State" the words "or during any period during which, in that State, the obligation provided for in Article 1 is considered as suspended under Article 3;".]

(ii) the continued use, as a mark or other sign, for commercial purposes, of the Olympic symbol in that State by any person or enterprise who or which has lawfully started such use in the said State prior to the date on which this Treaty enters into force in respect of that State.

(2) [Same as in the final text.]

(3) [Same as in the final text.]

(4) [There is no provision in the draft corresponding to Article 2(4) of the final text.]

CHAPTER I
SUBSTANTIVE PROVISIONS

Article 1: Obligation of States

Any State party to this Treaty shall be obliged, subject to Articles 2 and 3, to refuse or to invalidate the registration as a mark and to prohibit by appropriate measures the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol, as defined in the Charter of the International Olympic Committee, except with the authorization of the International Olympic Committee. The said definition and the graphic representation of the said symbol are reproduced in the Annex.

Article 2: Exceptions to the Obligation

(1) The obligation provided for in Article 1 shall not bind any State party to this Treaty in respect of:

(i) any mark consisting of or containing the Olympic symbol where that mark was registered in that State prior to the date on which this Treaty enters into force in respect of that State or during any period during which, in that State, the obligation provided for in Article 1 is considered as suspended under Article 3;

(ii) the continued use for commercial purposes of any mark or other sign, consisting of or containing the Olympic symbol, in that State by any person or enterprise who or which has lawfully started such use in the said State prior to the date on which this Treaty enters into force in respect of that State or during any period during which, in that State, the obligation provided for in Article 1 is considered as suspended under Article 3.

(2) The provisions of paragraph (1)(i) shall apply also in respect of marks whose registration has effect in the State by virtue of a registration under a treaty which the said State is a party to.

(3) Use with the authorization of the person or enterprise referred to in paragraph (1)(ii) shall be considered, for the purposes of the said paragraph, as use by the said person or enterprise.

(4) No State party to this Treaty shall be obliged to prohibit the use of the Olympic symbol where that symbol is used in the mass media for the purposes of information on the Olympic movement or its activities.

DRAFT [document OS/DC/3]

Article 3: Suspension of the Obligation

[Same as in the final text, except that the draft contains the words "the Government or" and "Government or" after the words "agreement in force between the International Committee" and "concerning the part of the said," respectively.]

[There is no chapter in the draft corresponding to Chapter II of the final text.]

CHAPTER II
FINAL CLAUSES

Article 4: Becoming Party to the Treaty

(1) [Same as Article 5(1) of the final text, except that the draft does not contain, in item (i), after the word "ratification" the words "acceptance or approval."]

(2) [There is no provision in the draft corresponding to Article 5(2) of the final text.]

(3) [Same as Article 5(3) of the final text, except that the draft does not contain the words ", acceptance, approval" after the word "ratification."]

Article 3: Suspension of the Obligation

The obligation provided for in Article 1 may be considered as suspended by any State party to this Treaty during any period during which there is no agreement in force between the International Olympic Committee and the National Olympic Committee of the said State concerning the conditions under which the International Olympic Committee will grant authorizations for the use of the Olympic symbol in that State and concerning the part of the said National Olympic Committee in any revenue that the International Olympic Committee obtains for granting the said authorizations.

CHAPTER II
GROUPINGS OF STATES

Article 4: Exceptions to Chapter I

The provisions of Chapter I shall, as regards States party to this Treaty which are members of a customs union, a free trade area, any other economic grouping or any other regional or subregional grouping, be without prejudice to their commitments under the instrument establishing such union, area or other grouping, in particular as regards the provisions of such instrument governing the free movement of goods or services.

CHAPTER III
FINAL CLAUSES

Article 5: Becoming Party to the Treaty

(1) Any State member of the World Intellectual Property Organization (hereinafter referred to as "the Organization") or of the International (Paris) Union for the Protection of Industrial Property (hereinafter referred to as "the Paris Union") may become party to this Treaty by:

(i) signature followed by the deposit of an instrument of ratification, acceptance or approval, or

(ii) deposit of an instrument of accession.

(2) Any State not referred to in paragraph (1) which is a member of the United Nations or any of the Specialized Agencies brought into relationship with the United Nations may become party to this Treaty by deposit of an instrument of accession.

(3) Instruments of ratification, acceptance, approval and accession shall be deposited with the Director General of the Organization (hereinafter referred to as "the Director General").

DRAFT [document OS/DC/3]

Article 5: Entry Into Force of the Treaty

(1) [Same as Article 6(1) of the final text, except that the draft does not contain after the word "ratification" the words ", acceptance, approval," which appear twice.]

(2) [Same as Article 6(2) of the final text, except that the draft does not contain after the word "ratification" the words ", acceptance, approval."]

Article 6: Denunciation of the Treaty

(1) [Same as Article 7(1) of the final text.]

(2) [Same as Article 7(2) of the final text.]

Article 7: Signature and Languages of the Treaty

(1) [Same as Article 8(1) of the final text.]

(2) [Same as Article 8(2) of the final text.]

(3) [Same as Article 8(3) of the final text, except that the draft does not contain after the date of "December 31, 1982" the words ", and thereafter at Geneva until June 30, 1983."]

Article 8: Deposit of the Treaty; Transmittal of Copies;
Registration of the Treaty

(1) [Same as Article 9(1) of the final text.]

(2) [Same as Article 9(2) of the final text, except that the draft contains, instead of the words "States referred to in Article 5(1) and (2)," which appear in the final text, the words "States members of the Organization or the Paris Union."]

(3) [Same as Article 9(3) of the final text.]

Article 6: Entry Into Force of the Treaty

(1) With respect to the three States which are the first to deposit their instruments of ratification, acceptance, approval or accession, this Treaty shall enter into force one month after the day on which the third instrument of ratification, acceptance, approval or accession has been deposited.

(2) With respect to any other State which deposits its instrument of ratification, acceptance, approval or accession, this Treaty shall enter into force one month after the day on which that instrument has been deposited.

Article 7: Denunciation of the Treaty

(1) Any State may denounce this Treaty by notification addressed to the Director General.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

Article 8: Signature and Languages of the Treaty

(1) This Treaty shall be signed in a single original in the English, French, Russian and Spanish languages, all texts being equally authentic.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian and Portuguese languages, and such other languages as the Conference of the Organization or the Assembly of the Paris Union may designate.

(3) This Treaty shall remain open for signature at Nairobi until December 31, 1982, and thereafter at Geneva until June 30, 1983.

Article 9: Deposit of the Treaty; Transmittal of Copies;
Registration of the Treaty

(1) The original of this Treaty, when no longer open for signature at Nairobi, shall be deposited with the Director General.

(2) The Director General shall transmit two copies, certified by him, of this Treaty to all the States referred to in Article 5(1) and (2) and, on request, to any other State.

(3) The Director General shall register this Treaty with the Secretariat of the United Nations.

DRAFT [document OS/DC/3]

Article 9: Notifications

The Director General shall notify the States members of the Organization or the Paris Union of:

- (i) signatures under Article 7;
- (ii) deposits of instruments of ratification or accession under Article 4(2);
- (iii) the date of the entry into force of this Treaty under Article 5(1);
- (iv) any denunciation notified under Article 6.

[There is no provision in the draft corresponding to the Annex to the Treaty.]

Article 10: Notifications

The Director General shall notify the States referred to in Article 5(1) and (2) of:

- (i) signatures under Article 8;
- (ii) deposits of instruments of ratification, acceptance, approval or accession under Article 5(3);
- (iii) the date of the entry into force of this Treaty under Article 6(1);
- (iv) any denunciation notified under Article 7.

ANNEX

The Olympic symbol consists of five interlaced rings: blue, yellow, black, green and red, arranged in that order from left to right. It consists of the Olympic rings alone, whether delineated in a single color or in different colors.



IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Treaty, in the name of*

ARGENTINA (F. Jiménez Dávila); AUSTRIA, October 24, 1981, and May 21, 1982 (Gregor Woschnagg, Michael Breisky); BENIN, June 28, 1983 (Joseph Legouda); BRAZIL, December 15, 1982 (Ney Moraes de Mello Mattos); CHILE (J. Becker Marshall); COLOMBIA, June 24, 1983 (Héctor Charry-Samper); CONGO (A. Gabou); CZECHOSLOVAKIA, December 22, 1982 (Milan Dudás); DEMOCRATIC PEOPLES'S REPUBLIC OF KOREA, June 28, 1983 (Djin Tchoung Kouk); GHANA (E.Y. Agorsor); GREECE (A. Afenduli); HUNGARY (Gy. Pusztai); INDIA, June 30, 1983 (Shri M. Dubey); INDONESIA (M. Sidik); ISRAEL (Yoel Tsur); ITALY, June 15, 1983 (Mario M. Alessi); IVORY COAST (B.T. Aka); KENYA (J.K. Kamere, D.J. Coward); MADAGASCAR, June 30, 1983 (Maxime Pascal Zafera); MEXICO (J.M. Terán Contreras); MOROCCO, May 16, 1983 (Ali Skalli); NEW ZEALAND, May 18, 1982 (Ian John Shearer); PERU May 20, 1983 (Roberto Villarán Koechlin); POLAND (J. Witek); PORTUGAL (J. Pereira Bastos, J. Mota Maia); QATAR, June 23, 1983 (Rashid Abdulla Al-Khalifa); ROMANIA (M.N. Vélicescu); SENEGAL (A. Sène); SOVIET UNION (I. Nayashkov); SPAIN (J. Delicado Montero-Ríos, A. Casado Cerviño); SRI LANKA (S. Poologasingam); SWITZERLAND (Paul Braendli); TOGO, March 25, 1983 (Amoussouvi Vigniko Amedegnato); TRINIDAD AND TOBAGO (W.S. Naimool); TUNISIA, December 29, 1981 (Abdelhamid Bin El Sheikh); URUGUAY, June 30, 1983 (F. Grünwaldt Ramasso); ZAMBIA, July 21, 1982 (Justin Musonda Chimba).

THE NAIROBI TREATY ENTERED INTO FORCE ON SEPTEMBER 25, 1982.**

* All signatures were affixed on October 24, 1981, unless otherwise indicated.

** As on the date of publication of these Records, the Nairobi Treaty is in force in respect of the following States: ALGERIA, BRAZIL, BULGARIA, CHILE, CONGO, CUBA, EGYPT, EL SALVADOR, EQUATORIAL GUINEA, ETHIOPIA, GREECE, GUATEMALA, INDIA, JAMAICA, KENYA, QATAR, SENEGAL, SRI LANKA, SYRIA, TOGO, TUNISIA, UGANDA, URUGUAY.

CONFERENCE DOCUMENTS

DOCUMENTS SERIES OS/DC

List of Documents

Document Number	Presented by	Subject
1	Director General of WIPO	Provisional Agenda
2	Director General of WIPO	Provisional Rules of Procedure
3	Director General of WIPO	Text of the draft Nairobi Treaty on the Protection of the Olympic Symbol; notes on the draft Articles
4	Council of ESARIPO	Resolution Concerning the Olympic Symbol Adopted by the Council of the Industrial Property Organization for English-Speaking Africa (ESARIPO)
5	United Kingdom	Articles 1 and 2(1)(ii)
6	United States of America	Articles 1 and 2
7	France, Germany (Federal Republic of), Greece, Ireland, Italy, Netherlands, United Kingdom	Proposal for a new article (on groupings of States)
8	Germany (Federal Republic of)	Article 2
9	France	Articles 1 and 3

[List of Documents, continued]

Document Number	Presented by	Subject
10	Japan	Articles 4, 5 and 9
11	Group D Countries	Article 1
12	Mexico	Articles 4, 8 and 9
13	Secretariat of the Conference	Rules of Procedure
14	Secretariat of the Conference	Nairobi Treaty on the Protection of the Olympic Symbol (draft)
15	Secretariat of the Conference	Nairobi Treaty on the Protection of the Olympic Symbol (final text)
16	Secretariat of the Conference	Nairobi Treaty on the Protection of the Olympic Symbol (final text as adopted on September 26, 1981)
17	Secretariat of the Conference	Corrigenda to the Russian text of the Treaty in documents OS/DC/15 and 16
18	Secretariat of the Conference	Signatures

Text of Documents OS/DC

OS/DC/1

December 1, 1980 (Original: English/French)

DIRECTOR GENERAL OF WIPO

Provisional Agenda of the Diplomatic Conference Prepared by the Director General

1. Opening of the Conference by the Director General of WIPO
2. Address by the Representative of the Government of Kenya
3. Adoption of the Rules of Procedure of the Conference (document OS/DC/2)
4. Election of the President of the Conference
5. Adoption of the agenda of the Conference
6. Election of the Vice-Presidents of the Conference
7. Consideration of the draft of a treaty on the protection of the Olympic symbol (document OS/DC/3)
8. Adoption of a treaty on the protection of the Olympic symbol
9. Closing of the Conference by its President (the signing ceremony will take place on October 24, 1981)

OS/DC/2

December 1, 1981 (Original: English/French)

DIRECTOR GENERAL OF WIPO

Provisional Rules of Procedure of the Diplomatic Conference prepared by the Director General

Rule 1: Application of the Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention

The Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol (hereinafter referred to as "the present Diplomatic Conference") shall apply, *mutatis mutandis*, but subject to the provisions of the present Rules of Procedure, the Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property as adopted by the latter Conference on March 1, 1980 (hereinafter referred to as "the Basic Rules of Procedure").*

Rule 2: Objective and Competence

(1) The objective of the present Diplomatic Conference is to negotiate and adopt a treaty on the protection of the Olympic symbol on the basis of the draft contained in document OS/DC/3 (hereinafter referred to as "the Draft").

(2) For the purposes of the present Rules of Procedure, references in the Basic Rules of Procedure to the basic proposals shall be considered to be references to the Draft.

Rule 3: Credentials, Full Powers and Letters of Appointment

Credentials, full powers and letters of appointment issued for the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property and accepted by that Conference shall be valid also for the purposes of the present Diplomatic Conference.

* The Basic Rules of Procedure read as follows:

CHAPTER I: OBJECTIVE, COMPETENCE, COMPOSITION, SECRETARIAT

Rule 1: Objective and Competence

(1) The objective of the Diplomatic Conference on the Revision (hereinafter referred to as "the Conference") of the Paris Convention for the Protection of Industrial Property, as last revised in Stockholm in 1967 (hereinafter referred to as "the Paris Convention"), is to negotiate and adopt, in accordance with Article 18, paragraphs (1) and (2), of the Paris Convention, a revised text of the Convention (hereinafter referred to as "the Revised Text").

[Document OS/DC/2 (continued)]

Rule 4: Subsidiary Bodies

The present Diplomatic Conference shall have no subsidiary bodies. All negotiations shall take place in, and all decisions shall be made by, the plenary of the present Diplomatic Conference.

Rule 5: Officers

The present Diplomatic Conference shall elect a President and three Vice-Presidents from among the delegates.

Rule 6: Quorum

The quorum shall be constituted by five Delegations.

Rule 7: Required Majority

Final adoption of the treaty referred to in Rule 2(1) shall require a two-thirds majority.

Footnote * of page 28 (continued)

[Rule 1 (continued)]

(2)(a) The negotiations shall be based on the following drafts (hereinafter referred to as "the basic proposals"):

(i) as far as Articles 1, 5A, 13, 20, 21, 22, 23, 24, 26, 27, 28, 29 and 30 of the Paris Convention are concerned, on the draft amendments adopted and/or forwarded to the Conference by the Preparatory Intergovernmental Committee on the Revision of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as "the Preparatory Committee"), as reproduced in document PR/DC/3;

(ii) as far as the proposed new Articles 12bis, 12ter and 22bis and the Protocol or other instrument on the protection of the Olympic Symbol are concerned, on the drafts adopted and forwarded to the Conference by the Preparatory Committee, as reproduced in document PR/DC/3;

Footnote * of page 28 (continued)

[Rule 1 (continued)]

(iii) as far as the matter of preferential treatment without reciprocity is concerned, on the drafts transmitted to the Director General of the World Intellectual Property Organization (hereinafter referred to as "WIPO") on March 29, 1979, and reproduced in document PR/PSC/5.Rev.;

(iv) as far as amendments to Article 6~~ter~~ and a new Article 10~~quater~~ concerning conflict between an appellation of origin and a trademark are concerned, on the drafts adopted or forwarded to the Conference by the Working Group on Conflict Between an Appellation of Origin and a Trademark, created by the Preparatory Committee, as reproduced in document PR/DC/4.

(b) As far as Article 5~~quater~~ of the Paris Convention is concerned, the negotiations shall be based on a proposal, considered to be a "basic proposal," that the said Article be omitted or that at least the developing countries be exempted from the obligation to apply the said Article.

(3) The Conference shall adopt amendments and new provisions only within the scope of the basic proposals, it being understood that this may involve necessary amendments in related articles other than those referred to in paragraph (2).

(4) The Conference, meeting in Plenary, shall be competent to:

(i) amend, within the limits indicated in Rule 49, these Rules of Procedure (hereinafter referred to as "these Rules");

(ii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iii) establish such committees and working groups as are provided for in these Rules;

(iv) adopt the Revised Text and a Protocol or other instrument on the Protection of the Olympic Symbol;

(v) adopt any recommendation or resolution whose subject matter is germane to the Revised Text or the Protocol or other instrument on the Protection of the Olympic Symbol;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

Footnote * of page 28 (continued)

Rule 2: Composition

(1) The Conference shall consist of:

(i) delegations of the States members of the International (Paris) Union for the Protection of Industrial Property (hereinafter referred to as "the Paris Union"),

(ii) delegations of the States members of WIPO not members of the Paris Union,

(iii) delegations of the States members of the United Nations other than those referred to in items (i) and (ii).

(2) The Conference shall include as observers also representatives of intergovernmental and international non-governmental organizations (hereinafter referred to as "Observers"), a list of which organizations is set forth in the Annex I.

Rule 3: Secretariat

(1) The Conference shall have a Secretariat provided by the International Bureau of WIPO (hereinafter referred to as "the International Bureau").

(2) The Director General of WIPO and any official of the International Bureau designated by the Director General of WIPO may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may make oral or written statements, observations or suggestions to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

CHAPTER II: REPRESENTATION

Rule 4: Representation of Governments

(1) Each Delegation shall consist of one or more delegates and may include alternate delegates and advisors. Each Delegation shall have a Head of Delegation and may have an Alternate or Deputy Head of Delegation.

(2) An alternate delegate or an advisor may act as a delegate upon designation by the Head of his Delegation.

Footnote * of page 28 (continued)Rule 5: Representation of Observers

An Observer may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

(1) Each Delegation shall present credentials.

(2) Full powers shall be required for signing any instrument adopted by the Conference and opened for signature except the final act, if any, referred to in Rule 50. Such powers may be included in the credentials.

(3) Credentials and full powers shall be issued by the Head of the State or Government, or by the Minister responsible for external affairs.

Rule 7: Letters of Appointment

The representatives of Observers shall present a letter or other document appointing them. Such letter or document shall be signed by the Head (Director General, Secretary General, or President) of the organization concerned.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary General of the Conference (see Rule 19(1)), if possible not later than twenty-four hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

(1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7, respectively, and shall report to the Conference, meeting in Plenary.

(2) The final decision on the said credentials, full powers, letters or other documents shall be within the competence of the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the adoption of the instrument or instruments concerned.

Footnote * of page 28 (continued)

Rule 10: Provisional Participation

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and Observers shall be entitled to participate provisionally in the deliberations of the Conference as provided in these Rules.

CHAPTER III: COMMITTEES AND WORKING GROUPS

Rule 11: Credentials Committee

(1) The Conference shall have a Credentials Committee.

(2) The Credentials Committee shall consist of nine members elected by the Conference, meeting in Plenary, from among the Delegations of the States members of the Paris Union.

(3) The officers of the Credentials Committee shall be elected by its members from among the delegates of the Delegations members of the said Committee.

(4) Notwithstanding Rule 47, the Credentials Committee may invite any Delegation to its deliberations.

Rule 12: Main Committees and Working Groups

(1) The Conference shall have three Main Committees. They shall be responsible for proposing, to the Conference, meeting in Plenary, texts for adoption, in respect of the basic proposals referred to in Rule 1(2) and within the scope referred to in Rule 1(3), as follows:

(i) Main Committee I, in respect of the basic proposals referred to in Rule 1(2) other than those assigned to Main Committees II or III;

(ii) Main Committee II, in respect of the basic proposals concerning Article 1 of the Paris Convention and the proposed new Article 22bis;

(iii) Main Committee III, in respect of the basic proposals concerning Articles 20 to 24 and 26 to 30 of the Paris Convention.

(2) Each Main Committee may establish such working groups as it deems useful.

Footnote * of page 28 (continued)

[Rule 12 (continued)]

(3) All Delegations shall be members of each Main Committee. The number of the members of any working group shall be decided by the Main Committee establishing it; the members of each working group shall be elected by the Main Committee which established it from among the Delegations.

(4) Subject to Rule 15(4), the officers of the Main Committees shall be elected by the Conference, meeting in Plenary, from among the delegates of the Delegations of States members of the Paris Union or members of WIPO not members of the Paris Union. Subject to Rule 15(4), the officers of any working group shall be elected by the Main Committee which established it from among the delegates of the Delegations members of the working group which are Delegations of States members of the Paris Union or members of WIPO not members of the Paris Union.

Rule 13: Drafting Committee

(1) The Conference shall have a Drafting Committee.

(2) The Drafting Committee shall consist of twelve members elected by the Conference, meeting in Plenary, from among the Delegations of the States members of the Paris Union, as well as ex officio, the Chairmen of the three Main Committees.

(3) The officers of the Drafting Committee shall be elected by its members from among the delegates of the Delegations members of the said Committee.

(4) The Drafting Committee shall prepare drafts and give advice on drafting as requested by the Main Committees. The Drafting Committee shall not alter the substance of texts submitted to it, but shall coordinate and review the drafting of all texts approved by the Main Committees, and shall submit the texts so reviewed for final approval to the Main Committees. Furthermore, the Drafting Committee shall review the English, Russian and Spanish texts of those provisions of the Revised Text for which the Main Committees do not submit texts.

Rule 14: Steering Committee

(1) The Steering Committee of the Conference shall consist of the President of the Conference, the Chairman of the Credentials Committee, the Chairmen of the Main Committees and the Chairman of the Drafting Committee.

Footnote * of page 28 (continued)

[Rule 14 (continued)]

(2) Notwithstanding Rule 47, the Steering Committee may invite any delegate to its deliberations.

(3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including, in particular, decisions on the coordinating of the meetings of the Plenary, the committees and the working groups.

(4) The Steering Committee shall propose for adoption by the Conference, meeting in Plenary, the text of any final act of the Conference.

CHAPTER IV: OFFICERS

Rule 15: Officers

(1) The Conference, meeting in Plenary and presided over by the Director General of WIPO, shall elect its President, and, presided over by its President, shall elect nine Vice-Presidents, from among the delegates of Delegations of States members of the Paris Union or members of WIPO not members of the Paris Union.

(2) The Credentials Committee and the Main Committees shall each have a Chairman and two Vice-Chairmen. The Drafting Committee shall have a Chairman and three Vice-Chairmen.

(3) Precedence among the Vice-Presidents and Vice-Chairmen shall depend on the place occupied by the name of the State of each of them in the list of Delegations established in the French alphabetical order, beginning with the name of the State drawn by lot by the President of the Conference.

(4) The President of the Conference and the Chairmen of all committees and working groups shall be delegates of Delegations of States members of the Paris Union.

Rule 16: Acting President or Acting Chairman

(1) If the President of the Conference or any Chairman is absent from any meeting of the body to be chaired by him (the Conference, meeting in Plenary, the committee or working group), such meeting shall, subject to paragraph (3), be presided over, as Acting President or Acting Chairman, by that Vice-President or Vice-Chairman of that body who, among the Vice-Presidents or Vice-Chairmen present, has precedence over the others.

Footnote * of page 28 (continued)

[Rule 16 (continued)]

(2) If both the President and the Vice-President or Vice-Presidents entitled to be Acting President or both the Chairman and the Vice-Chairman or Vice-Chairmen entitled to be Acting Vice-Chairman are absent from any meeting of the body in which they hold a function (the Conference, meeting in Plenary, the committee or working group), an Acting President or Acting Chairman, as the case may be, shall be elected by that body.

(3) Any Acting President or Acting Chairman must be a delegate of a Delegation of a State member of the Paris Union.

Rule 17: Replacement of President or Chairman

If, for the rest of the duration of the Conference, the President or any Chairman is unable to perform his functions, a new President or Chairman shall be elected by the body concerned (the Conference, meeting in Plenary, the committee or working group).

Rule 18: Vote by Presiding Officer

(1) No President or Chairman, whether elected as such or Acting (hereinafter referred to as "the Presiding Officer"), shall vote. Another member of his Delegation may vote in the name of his State.

(2) Where the Presiding Officer is the only member of his Delegation, he may vote, but only after all other Delegations have voted.

CHAPTER V: SECRETARIAT

Rule 19: Secretariat

(1) The Director General of WIPO shall, from among the staff of the International Bureau, designate the Secretary General of the Conference and a Secretary for each committee and for each working group.

(2) The Secretary General of the Conference shall direct the staff required by the Conference.

(3) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents; the interpretation of oral interventions; and the performance of all other secretarial work required for the Conference.

(4) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all documents of the Conference; the publication of the summary minutes (see Rule 44) of the Conference after the Conference; and the distribution of the final documents of the Conference to the participating Governments.

Footnote * of page 28 (continued)

CHAPTER VI: CONDUCT OF BUSINESS

Rule 20: Quorum

(1) A quorum shall be required in the Conference, meeting in Plenary, and shall be constituted by a simple majority of the Delegations of the States members of the Paris Union participating in the Conference.

(2) A quorum shall not be required in the meetings of committees and working groups.

Rule 21: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon him elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. He shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the meeting the limiting of time to be allowed to speakers, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers, or the closure of the debate. He may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected.

Rule 22: Special Powers of the President of the Conference

The President of the Conference may, after due consultations, propose a list of candidates for any position which is to be filled by a decision of the Conference, meeting in Plenary.

Rule 23: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 24 and 25, the Presiding Officer shall call upon speakers in the order in which they signify their desire to speak.

(2) The Presiding Officer may call a speaker to order if his remarks are not relevant to the subject under discussion.

Footnote * of page 28 (continued)Rule 24: Precedence

(1) Delegations asking for the floor shall generally be accorded precedence over Observers asking for the floor.

(2) The Chairman of a committee or working group may be accorded precedence during discussions relating to the work of his committee or working group.

(3) The Director General of WIPO or his representative may be accorded precedence for making statements, observations or suggestions.

Rule 25: Points of Order

(1) During the discussion of any matter, any Delegation of a State member of the Paris Union or, if a proposal for amendment (see Rule 31) made by it is involved, any Delegation of a State not member of the Paris Union immediately supported by a Delegation of a State member of the Paris Union may rise to the point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Delegation of a State member of the Paris Union may appeal against the ruling of the Presiding Officer; this right shall belong also to the Delegation of a State not member of the Paris Union which raised the point of order if it is immediately supported by a Delegation of a State member of the Paris Union. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless the appeal is approved.

(2) Any Delegation which under paragraph (1) rises to a point of order may not speak on the substance of the matter under discussion.

Rule 26: Limit on Speeches

In any meeting, it may be decided to limit the time to be allowed to each speaker and the number of times each Delegation or Observer may speak on any question. When the debate is limited and a Delegation or an Observer has used up its allotted time, the Presiding Officer shall call it to order without delay.

Rule 27: Closing of List of Speakers

(1) During the discussion of any given question, the Presiding Officer may announce the list of participants who have signified their wish to speak and decide to close the list as to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after he has decided to close the list of speakers, makes it desirable.

Footnote * of page 28 (continued)[Rule 27 (continued)]

(2) Any decision made by the Presiding Officer under paragraph (1) may be the subject of an appeal according to the provisions of Rule 25.

Rule 28: Adjournment or Closure of Debate

Any Delegation of a State member of the Paris Union may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has signified his wish to speak. In addition to the proposer of the motion to adjourn or close the debate, permission to speak on that motion shall be accorded to one Delegation of a State member of the Paris Union supporting and two Delegations of States members of the Paris Union opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

Rule 29: Suspension or Adjournment of the Meeting

During the discussion of any matter, any Delegation of a State member of the Paris Union may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

Rule 30: Order of Procedural Motions; Content of Interventions on Such Motions

(1) Subject to Rule 25, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate on the question under discussion;
- (iv) to close the debate on the question under discussion.

(2) Any speaker who has been given the floor on a procedural motion may only speak on that motion and may not speak on the substance of the matter under discussion.

Rule 31: Proposals for Amendment

(1) Any Delegation of a State member of the Paris Union may propose amendments to the basic proposals.

(2) Any Delegation of a State not member of the Paris Union may propose amendments to the basic proposals, provided that:

Footnote * of page 28 (continued)

[Rule 31 (continued)]

(i) where the proposal is made in writing, it is made jointly with a Delegation of a State member of the Paris Union;

(ii) where the proposal is made orally, it is immediately supported by a Delegation of a State member of the Paris Union.

(3) Proposals for amendment shall, as a rule, be submitted in writing and handed to the Secretary of the competent body (the Conference, meeting in Plenary, the committee or working group). The Secretariat shall distribute copies to the Delegations and Observers represented in the body concerned. As a general rule, a proposal for amendment shall be considered and discussed or put to the vote in any meeting only if copies of it have been distributed at least three hours before it is called up for consideration. The Presiding Officer may, however, permit the consideration and discussion of a proposal for amendment even though copies have not been distributed or have been distributed less than three hours before it is called up for consideration.

Rule 32: Interpretation of Rule 1

(1) If any Delegation having the right to do so moves that a proposal, duly seconded, should not be considered by the Conference because it is outside the competence of the Conference as defined in Rule 1, such a motion shall be decided by the Conference, meeting in Plenary, and shall be put to the vote before the proposal is called up for discussion.

(2) If the motion referred to in paragraph (1) is made in a body other than the Conference, meeting in Plenary, it shall be referred for decision to the Conference, meeting in Plenary.

Rule 33: Withdrawal of Procedural Motions and Proposals for Amendment

Any procedural motion and any proposal for amendment may be withdrawn by the Delegation which has made it, at any time before voting on it has commenced, provided that no amendment to that motion or proposal has been proposed by another Delegation having the right to do so under these Rules. Any motion or proposal which has thus been withdrawn may be reintroduced by any other Delegation having the right to do so under these Rules.

Rule 34: Reconsideration of Matters Decided

When any matter has been decided by a body (the Conference, meeting in Plenary, a committee or working group), it may not be reconsidered by that body, unless so decided by a majority of two-thirds. In addition to the proposer of the motion to reconsider, permission to speak on that

Footnote * of page 28 (continued)
[Rule 34 (continued)]

motion shall be accorded only to one Delegation having the right to make proposals seconding and two Delegations having the right to make proposals opposing the motion, after which the motion shall immediately be put to the vote.

CHAPTER VII: VOTING

Rule 35: Voting Rights

Only Delegations of the States members of the Paris Union shall have the right to vote. Each of the said Delegations shall have one vote and shall represent and vote only in the name of its State.

Rule 36: Required Majorities

(1) The Conference, meeting in Plenary Session, shall endeavour to achieve final adoption of the Revised Text by consensus. However, if consensus cannot be attained, the final adoption of the Revised Text shall require a majority of 2/3, provided that the number of States voting against its approval shall not exceed 12 (twelve). In case the Revised Text is not approved on a first vote as prescribed above a second vote under the same rules will take place not less than 48 hours later. If, in the second vote, the Revised Text is not approved, a third vote will take place not less than 48 hours later than the second vote. The third vote shall be taken under the same rules but by means of a secret ballot.

(2) Subject to Rules 34 and 49(2), any other decision of the Conference, meeting in Plenary, and all decisions in any committee or working group shall require a simple majority.

(3) In determining whether the required majority has been attained, only affirmative and negative votes shall be counted, and express abstentions, non-voting or absence during the vote shall not be counted.

Rule 37: Requirement of Seconding; Method of Voting

(1) Any proposal for amendment made by a Delegation having the right to make such a proposal under Rule 31 shall be put to a vote only if it is seconded by at least one other Delegation having the right to vote (see Rule 35).

(2) Voting on any question shall be by show of hands unless a Delegation having the right to vote, supported by at least one other Delegation having the right to vote, requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the French alphabetical order of the names of the States, beginning with the State whose name is drawn by lot by the Presiding Officer.

Footnote * of page 28 (continued)[Rule 37 (continued)]

(3) Paragraph (2) shall also apply to voting for elections, unless in a given case the body concerned decides, at the request of any Delegation having the right to vote, that the election be held by secret ballot. Voting by secret ballot shall be governed by the Rules for Voting by Secret Ballot set forth in Annex II.

Rule 38: Conduct During Voting

(1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.

(2) The Presiding Officer may permit any Delegation having the right to vote (see Rule 35) to explain its vote or abstention either before or after the voting.

Rule 39: Division of Proposals

Any Delegation having the right to vote (see Rule 35) may move that parts of any of the basic proposals or of any proposal for amendment be voted upon separately. If objection is made to the request for division, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Delegation having the right to vote in favor and two Delegations having the right to vote against. If the motion for division is carried, all parts separately approved shall again be put to the vote, together, as a whole. If all operative parts of a basic proposal or of a proposal for amendment have been rejected, that basic proposal or that proposal for amendment shall be considered to have been rejected as a whole.

Rule 40: Voting on Proposals for Amendment

Any proposal for amendment shall be voted upon before voting upon the text to which it relates. Proposals for amendment relating to the same text shall be put to a vote in the order in which their substance is removed from the said text, the furthest removed being put to a vote first and the least removed being put to a vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such proposal or text shall not be put to the vote. If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to a vote. Any proposal to add to, or delete from, a text shall be considered a proposal for amendment.

Footnote * of page 28 (continued)

Rule 41: Voting on Proposals on the Same Question

Subject to Rule 40, where two or more proposals relate to the same question, the body (the Conference, meeting in Plenary, the committee or working group) concerned shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted.

Rule 42: Equally Divided Votes

(1) If a vote is equally divided on matters that require adoption by simple majority other than elections of officers, the proposal shall be regarded as rejected.

(2) If a vote is equally divided on a proposal for electing a given person as an officer, the vote shall be repeated if the nomination is maintained until either that nomination is adopted or rejected or another person is elected for the position in question.

CHAPTER VIII: LANGUAGES AND MINUTES

Rule 43: Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any body (the Conference, meeting in Plenary, the committee or working group) shall be in English, French, Russian or Spanish, and interpretation shall be provided by the Secretariat into the other three languages.

(2) Any Delegation may make oral interventions in another language provided its own interpreter simultaneously interprets the intervention into English, French, Russian or Spanish. Interpretation into the other of the said languages by the interpreters of the Secretariat may be based on the interpretation given in one of the said languages.

(3) Any committee or working group may, if none of its members objects, decide to waive interpretation or to limit it to fewer languages than those referred to in paragraphs (1) and (2).

Rule 44: Summary Minutes

(1) Provisional summary minutes of the Plenary meetings of the Conference and of the meetings of the Main Committees shall be drawn up by the International Bureau and shall be made available as soon as possible after the closing of the Conference to all speakers, who shall, within two months after the making available of such minutes, inform the International Bureau of any suggestions for changes in the minutes of their own interventions.

Footnote * of page 28 (continued)
[Rule 44 (continued)]

(2) The final summary minutes shall be published in due course by the International Bureau.

Rule 45: Languages of Documents and Minutes

(1) Any written proposal shall be presented to the Secretariat in English, French, Russian or Spanish. Such proposal shall be distributed by the Secretariat in English, French, Russian and Spanish.

(2) Reports of the committees and working groups shall be distributed in English, French, Russian and Spanish. Information documents of the Secretariat shall be distributed in English and French.

(3)(a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English, French, Russian or Spanish. Any part of the provisional summary minutes drawn up in Russian or Spanish shall be accompanied by an English or French translation.

(b) The final summary minutes shall be distributed in English, French, Russian and Spanish.

CHAPTER IX: OPEN AND CLOSED MEETINGS

Rule 46: Meetings of the Conference and of the Main Committees

The Plenary meetings of the Conference and the meetings of the Main Committees shall be open to the public unless the Conference, meeting in Plenary, or the Main Committee concerned, decides otherwise.

Rule 47: Meetings of Other Committees and of Working Groups

(1) Subject to Rules 11(4) and 14(2), the meetings of the Credentials Committee and the Steering Committee shall be open only to the members of the committee concerned and the Secretariat. The meetings of the Drafting Committee shall be open only to the members of that Committee and the Secretariat.

(2) The meeting of any working group shall be open only to the members of the working group and the Secretariat unless the Main Committee which established the working group decides to allow Delegations not members of the working group to be present during the discussions of the working group.

Footnote * of page 28 (continued)

CHAPTER X: OBSERVERS

Rule 48: Observers

(1) Observers may attend the Plenary meetings of the Conference and the meeting of the Main Committees.

(2) Observers may, upon the invitation of the Presiding Officer, make oral statements in the Conference, meeting in Plenary, and in meetings of the Main Committees, on questions within the scope of their activities.

(3) Written statements submitted by Observers on subjects for which they have a special competence and which are related to the work of the Conference shall be distributed by the Secretariat to the participants in the quantities and in the languages in which such statements are made available.

CHAPTER XI: AMENDMENTS TO THE RULES OF PROCEDURE

Rule 49: Amendments to the Rules of Procedure

(1) With the exception of Rule 1, Rule 35, Rule 36(1), and the present Rule, the present Rules of Procedure may be amended by the Conference, meeting in Plenary.

(2) The adoption of any amendment shall require a majority of three-fourths.

CHAPTER XII: FINAL ACT

Rule 50: Final Act

If a final act is adopted, it shall be open for signature by any Delegation.

Footnote * of page 28 (continued)

ANNEX I TO THE BASIC RULES OF PROCEDURE
INTERGOVERNMENTAL AND
INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

(See Rule 2(2))

Intergovernmental Organizations (21)

1. United Nations, including the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Organization (UNIDO), the United Nations Environment Programme (UNEP) and the Office of the United Nations High Commissioner for Refugees (UNHCR)
2. International Labour Organisation (ILO)
3. United Nations Educational, Scientific and Cultural Organization (UNESCO)
4. World Health Organization (WHO)
5. General Agreement on Tariffs and Trade (GATT)
6. African Intellectual Property Organization (OAPI)
7. Benelux Trademark Office/Benelux Designs Office (BBM)
8. Council of Europe (CE)
9. Council for Mutual Economic Assistance (CMEA)
10. European Communities
11. European Patent Organisation (EPO)
12. European Space Agency (ESA)
13. Industrial Development Centre for Arab States (IDCAS)
14. International Olive Oil Council (IOOC)
15. Industrial Property Organization for English-Speaking Africa (ESARIPO)
16. International Vine and Wine Office (IWO)
17. Latin American Free Trade Association (ALALC)

Footnote * of page 28 (continued)[Annex I to the Basic Rules of Procedure (continued)]

18. Organization of African Unity (OAU)
19. Organization of American States (OAS)
20. Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA)
21. Secretariat of the Interim Committee for the Community Patent

International Non-Governmental Organizations (20)

1. Asian Patent Attorneys Association (APAA)
2. Benelux Association of Trademark and Design Agents (BMM)
3. Center for the International Study of Industrial Property (CEIPI)
4. Committee of National Institutes of Patent Agents (CNIPA)
5. Council of European Industrial Federations (CEIF)
6. European Federation of Agents of Industry in Industrial Property (FEMPI)
7. European Industrial Research Management Association (EIRMA)
8. Institute of Professional Representatives Before the European Patent Office (EPI)
9. Inter-American Association of Industrial Property (ASIPI)
10. International Association for the Protection of Industrial Property (AIPPI)
11. International Chamber of Commerce (ICC)
12. International Federation of Inventors' Associations (IFIA)
13. International Federation of Patent Agents (FICPI)
14. International League Against Unfair Competition (LICCD)
15. International Olympic Committee (IOC)
16. Licensing Executives Society (International) (LES)

Footnote * of page 28 (continued)

[Annex I to the Basic Rules of Procedure (continued)]

17. Pacific Industrial Property Association (PIPA)
18. Union of European Practitioners in Industrial Property (UEPIP)
19. Union of Industries of the European Community (UNICE)
20. United States Trademark Association (USTA)

ANNEX II TO THE BASIC RULES OF PROCEDURE

RULES FOR VOTING BY SECRET BALLOT

(See Rule 37(3))

Rule 1. Before the ballot begins, the Presiding Officer shall appoint two tellers from among the delegates present. He shall hand them the list of delegations entitled to vote and, where applicable, the list of candidates.

Rule 2. The Secretariat shall distribute ballot papers and envelopes to the delegations. Ballot papers and envelopes shall be of white paper without distinguishing marks.

Rule 3. The tellers shall satisfy themselves that the ballot box is empty, and, having locked it, shall hand the key to the Presiding Officer.

Rule 4. Delegations shall be called in turn by the Secretary of the meeting, in the alphabetical order of the names of the States in French, beginning with the State whose name shall have been drawn by lot.

Rule 5. When their names are called, delegations shall hand their ballot papers, in the envelopes, to a teller, who shall place them in the ballot box.

Rule 6. To indicate the recording of each State's vote, the Secretary of the meeting and one of the tellers shall sign or initial the list in the margin opposite the name of the State in question.

Rule 7. At the conclusion of the calling, the Presiding Officer shall declare the ballot closed and announce that the votes are to be counted.

Rule 8. When the Presiding Officer has opened the ballot box, the tellers shall check the number of envelopes. If the number is greater or less than that of the voters, the Presiding Officer shall be informed, and shall then declare the vote invalid and announce that it is necessary to re-open the ballot.

Footnote * of page 28 (continued)

[Annex II to the Basic Rules of Procedure (continued)]

Rule 9. One of the tellers shall open the envelopes, one by one, read aloud what is written on the ballot paper, and pass it to the other teller. The votes inscribed on the ballot papers shall be entered on lists prepared for that purpose.

Rule 10. Blank ballot papers shall be considered to be abstentions.

Rule 11. The following shall be considered invalid:

(a) ballot papers on which there are more names than there are States or persons to be elected;

(b) ballot papers in which the voters have revealed their identity, in particular, by apposing their signature or mentioning the name of the State they represent;

(c) ballot papers which do not give a clear reply to the question asked.

Rule 12. A candidate is entitled to only one vote per ballot paper, even if his name appears more than once thereon.

Rule 13. When the counting of the votes is completed, the Presiding Officer shall announce the results of the ballot in the following order:

number of States entitled to vote;
number absent;
number of abstentions;
number of invalid ballot papers;
number of votes recorded;
number of votes constituting the required majority;
number of votes for or against the proposal or names of the candidates and number of votes secured by each of them, in descending order of the number of votes.

Rule 14. The Presiding Officer shall announce the decision resulting from the vote. In particular, he shall declare elected those candidates who have obtained the required majority.

Rule 15. Immediately after the announcement of the results of the ballot, the ballot papers shall be burnt in the presence of the tellers.

Rule 16. The lists on which the tellers have recorded the results of the vote shall, after signature by the Presiding Officer and by the tellers, constitute the official record of the ballot, and shall be deposited in the archives of WIPO.

Rule 17. The Presiding Officer of the meeting shall draw the attention of delegations to these Rules whenever a vote is taken by secret ballot.

OS/DC/3

December 1, 1980 (Original: English/French)

DIRECTOR GENERAL OF WIPO

Draft Nairobi Treaty on the Protection of the Olympic Symbol. Memorandum by the Director General

Editor's Note: The text of the draft Treaty as appearing in document OS/DC/3 is reproduced on the even-numbered pages 10 to 18, above. The part which gave the historical background of the draft Treaty and the notes which accompanied the text of the draft Treaty are reproduced below.

INTRODUCTION

1. The Assembly of the Paris Union for the Protection of Industrial Property decided at its September 1980 session that a separate conference for the adoption of an independent instrument concerning the protection of the Olympic symbol would be convened in Nairobi (Kenya) for September 24 and 25, 1981, and that the deliberations of the said separate conference would be based on a document which, as far as substance is concerned, would follow the draft contained in document PR/DC/3 (which was before the first session of the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property held at Geneva from February 4 to March 4, 1980) and which would also contain draft final clauses appropriate for an independent instrument. The Conference of Representatives of the Paris Union, also at its September 1980 session, concurred with this decision (see documents P/A/V/4, paragraph 6, and P/CR/VII/3, paragraph 3).
2. The present document has been prepared in accordance with the decisions referred to in the preceding paragraph. It contains the draft of an independent instrument on the protection of the Olympic symbol, tentatively called the "Nairobi Treaty on the Protection of the Olympic Symbol" (hereinafter referred to as "the draft Treaty"). The provisional agenda and the provisional rules of procedure of the separate conference are contained in documents OS/DC/1 and 2, respectively.
3. The draft Treaty contains two chapters. Chapter I is entitled "Substantive Provisions"; it reproduces, subject to a modified presentation, Article 1 of the draft Protocol on the Protection of the Olympic Symbol (hereinafter referred to as "the draft Protocol"), contained in document PR/DC/3 (pages 120 and following). Chapter II, entitled "Final Clauses," reproduces in essence the provisions contained in Article 2 of the draft Protocol, taking into account, however, that the purpose of the separate conference is not the adoption of a protocol linked to the Paris Convention but the adoption of an independent instrument, namely a treaty not linked to the Paris Convention.

[Document OS/DC/3 (continued)]

4. Following the system adopted in document PR/DC/3 mentioned above, the provisions of the draft Treaty are explained in Notes prepared by the Director General, which appear on the pages bearing odd numbers, while the text of the draft Treaty appears on the pages bearing even numbers.
5. Whenever the provisions of the draft Treaty are similar to the provisions of the draft Protocol, the Notes of the Director General concerning the draft Protocol (see document PR/DC/3, pages 121 and following) are reproduced in the present document with an appropriate reference to the applicable paragraphs of that document.
6. The present document replaces document PR/DC/3 as far as the draft Protocol is concerned.

HISTORY OF THE DRAFT TREATY

7. Before the Assembly of the Paris Union decided to entrust the consideration of an instrument on the protection of the Olympic symbol to a separate conference, the predecessor of the draft Treaty, namely the draft Protocol, was one of the basic proposals which had been prepared in 1978/79 under the auspices of the Preparatory Intergovernmental Committee on the Revision of the Paris Convention for the Protection of Industrial Property (see document PR/DC/3, paragraph 255).

BRIEF SUMMARY OF THE ESSENTIALS OF THE DRAFT TREATY

8. The essence of the draft Treaty is to make the use for commercial purposes of the Olympic symbol (five interlaced rings) conditional upon the authorization of the International Olympic Committee and to induce that Committee to share with the National Olympic Committees the revenues derived from the grant of authorizations for such use of the symbol. Such revenues would be expected to be used for promoting sports activities, which are so important for the health of the people. It is particularly the developing countries that have expressed the desire for the creation of such a source of revenue for the promotion of sports activities in their territories. (Cf. document PR/DC/3, paragraph 256.)
9. Article 1. This Article provides for the principal obligation of the States party to the Treaty, namely to prevent the registration of the Olympic symbol as a mark and to prevent the use of that symbol as a mark or other sign, for commercial purposes, except where such registration or use is authorized by the International Olympic Committee. The possibility of authorization by the International Olympic Committee is the mechanism which can be used in order to derive revenues from commercial use of the Olympic symbol.

[Document OS/DC/3 (continued)]

10. The International Olympic Committee is responsible for the organization of the Olympic Games, held every fourth year in a different city. That Committee decides in which city the Games are to be held and concludes an agreement with the host city covering all aspects of the holding of the Games in that city. That Committee also decides the program of the Games and establishes the rules applicable to the various events. The headquarters of the International Olympic Committee are in Lausanne (Switzerland). (Cf. document PR/DC/3, paragraph 258.)

11. Rule 6 of the Rules of the International Olympic Committee defines the Olympic rings as "five interlaced rings--blue, yellow, black, green and red--arranged in that order from left to right"; the same Rule provides that the Olympic symbol consists of the Olympic rings "whether delineated in a single colour or in different colours"; finally, the same Rule defines the Olympic emblem as "the combination of the Olympic rings with another distinctive sign." (Cf. document PR/DC/3, paragraph 259.)

12. There are "Bye-Laws" to the said Rules. The Bye-Law to Rule 6 provides that "the International Olympic Committee is the responsible authority for the protection of the Olympic flag, Olympic symbol and Olympic motto, which are its exclusive property. It shall take every appropriate step possible to obtain their legal protection on a national and international basis. It shall also lend its support to efforts the National Olympic Committees must make to obtain the protection of the Olympic flag, symbol and motto for the International Olympic Committee within their country." (Cf. document PR/DC/3, paragraph 260.)

13. The obligation accepted by a State which becomes bound by the Treaty is that of preventing (prohibiting)--usually by appropriate provisions in its national law--certain acts in respect of the Olympic symbol, namely: (i) the registration, in the national register of marks of the State, as a mark, of any sign consisting of or containing the Olympic symbol; and (ii) the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol. It is to be noted that registration is prohibited irrespective of the purpose which the applicant for registration seeks to attain through registration, whereas use is prohibited only when it serves commercial purposes. A sign consists of the Olympic symbol if it consists of five Olympic rings and nothing else; it contains the Olympic symbol if it consists of the five Olympic rings and some other element such as an additional drawing (for example, a star drawn around the five rings) or words or names placed next to the five rings. The obligation to prevent such registration or use does not exist if the registration or use is done "with the authorization of the International Olympic Committee." In practice, the authorization will generally be given readily by that Committee, provided the person or enterprise desiring the authorization pays for it, in other words, he or it is "licensed" by the International Olympic Committee to register or use a sign consisting of or containing the Olympic symbol. (Cf. document PR/DC/3, paragraph 262.)

[Document OS/DC/3 (continued)]

14. As indicated by the words "subject to Articles 2 and 3," the obligation stated in Article 1 may suffer exceptions. They are of two main kinds, namely exceptions to the obligation and suspension of the obligation.

15. Article 2. Paragraph (1) allows any State party to the Treaty to consider itself not bound by the obligation provided for in Article 1 where the preventing of the registration or use (for commercial purposes) would affect acquired rights or existing lawful situations. As provided in the said paragraph, such situations are of two kinds: (i) registration as a mark obtained prior to the date on which the State becomes bound by the Treaty; or (ii) lawful use started prior to the date on which the State becomes bound by the Treaty. "Registration" means not only registration in the national register of marks of the State but any registration under a treaty where such registration has an effect in that State (see paragraph (2)). Such a treaty would, for example, be the Madrid Agreement Concerning the International Registration of Marks or the Trademark Registration Treaty. "Use" commenced prior to the date on which the State becomes bound by the Treaty need not be use by the person or enterprise invoking the exception; it may also be use by a third party authorized by the said person or entity to use (see paragraph 3)). (Cf. document PR/DC/3, paragraph 264.)

16. Whether the use has "lawfully" started prior to the State's becoming bound by the Treaty is, naturally, to be judged according to the law of the State in existence prior to its becoming bound by the Treaty. (Cf. document PR/DC/3, paragraph 265.)

17. The aim of the exception provided for in Article 2 is to remove any obstacle to the ratification of or accession to the Treaty by States which consider that the prohibition provided for in Article 1 could affect acquired rights. Since such rights are inviolable if not sacrosanct in the eyes of many States, Article 2 gives them the express assurance that they are free to respect such acquired rights fully even after becoming bound by the Treaty. (Cf. document PR/DC/3, paragraph 266.)

18. Article 3. This Article is one which speaks for the first time of National Olympic Committees. Rule 24 of the Rules of the International Olympic Committee provides that "for the furtherance of the Olympic movement throughout the world, the International Olympic Committee shall recognize as National Olympic Committees entitled to call themselves by that name, committees that are established in accordance with [certain]...principles [specified in the Rules], that conform to the Rules and Bye-Laws of the International Olympic Committee, and having, if possible, juridical status." In many countries, particularly in most of the developing countries, the role of the National Olympic Committee is assumed by the Government itself (for example, the Ministry responsible for sports matters). That is why the draft Treaty speaks of "the Government or the National Olympic Committee [of a given State]" (emphasis supplied). (Cf. document PR/DC/3, paragraph 267.)

[Document OS/DC/3 (continued)]

19. The Article under consideration serves the purpose described above (see paragraph 8) as that of "inducing" the International Olympic Committee to share with the Government or the National Olympic Committee of the State party to the Treaty the revenues which the International Olympic Committee derives from licensing third parties to use the Olympic symbol in the territory of that State. The International Olympic Committee is so induced by reason of the danger which the State can create for the International Olympic Committee when the latter does not come to terms with the Government or the National Olympic Committee of that State in respect of the part of the licensing revenues payable to that Government or National Committee, namely, the danger that the obligation to force others to respect the Olympic symbol is going to be suspended by the State. Such suspension could mean the uncontrolled use of the Olympic symbol and the cutting off of any source of revenue for the International Olympic Committee. (Cf. document PR/DC/3, paragraph 268.)

20. The "suspension" of the obligation would be decided unilaterally by the State on the ground that there was no agreement in force between the International Olympic Committee, on the one hand, and the Government or the National Olympic Committee of the State, on the other. Such suspension could last as long as such an agreement was non-existent (for example, because it had expired and had not been renewed). The agreement would have to cover two points. The first would be "the conditions under which the International Olympic Committee will grant authorizations for the use of the Olympic symbol in that State"; these would, characteristically, include regulations concerning who (national and/or foreign enterprises, etc.) might be licensed and how the amount of the license fee was to be calculated and fixed. The second point to be covered in the said agreement would be the determination of the "part" of the Government or the National Olympic Committee of the State "in any revenue that the International Olympic Committee obtains for granting the said authorizations"; that "part" could, characteristically, be expressed as a percentage of the revenues, bearing in mind the fact that the said part is sometimes 100% of the revenues, the International Olympic Committee, in such cases, foregoing any pecuniary benefit for itself. (Cf. document PR/DC/3, paragraph 269.)

21. Article 4. This Article establishes conditions which a State must fulfill in order to be in a position to become party to the Treaty and regulates the procedure for becoming party to the Treaty.

22. A State can become party to the Treaty if it is a member of WIPO or the Paris Union. This condition is based on the fact that the obligations established by the Treaty concern certain aspects of industrial property, which are thus matters relevant to WIPO and the Paris Union.

23. As regards the procedure for becoming party to the Treaty, the established practice is followed in accordance with which any State desiring to become party to the Treaty must, if it has signed the Treaty (in accordance with Article 7(1) and (3)), ratify it, or, if it has not signed the Treaty, accede to it. As usual for treaties concluded under the auspices of WIPO, paragraph (2) provides that instruments of ratification and accession are to be deposited with the Director General of WIPO.

[Document OS/DC/3 (continued)]

24. Article 5. This Article, too, follows established practice. However, it fixes the number of States required to bring the Treaty into force at three. This--relatively small--number is justified by the fact that it is in the interest of any State that ratifies or accedes to the Treaty that the Treaty come into effect as soon as possible since, once it is in effect, the State's possibility for securing revenues from the International Olympic Committee starts. The smaller the required number of ratifications or accessions, the sooner the Treaty will enter into force.

25. Article 6. This Article follows established practice.

26. Article 7. This Article determines the languages of the original of the Treaty, the languages of official texts of the Treaty (which are languages other than the languages of the original of the Treaty) and the period of time during which the Treaty remains open for signature. The provisions of this Article are in conformity with established practice and, as regards the languages of the original of the Treaty, in conformity with the draft of Article 29(1)(a) of the Paris Convention (see document PR/DC/3, page 116).

27. Article 8. This Article follows established practice.

28. Article 9. This Article follows established practice.

OS/DC/4

September 24, 1981 (Original: English)

SECRETARIAT OF THE CONFERENCE

Resolution Concerning the Olympic Symbol Adopted by the Council of the Industrial Property Organization of the English-Speaking Countries (ESARIPO)

RESOLUTION CONCERNING THE OLYMPIC SYMBOL
(Adopted by the Council at the Fifth Session)

The Council of the Industrial Property Organization for English-Speaking Africa (ESARIPO), at its fifth session meeting in Nairobi on September 22 and 23, 1981,

Having regard to the urgent need to take effective measures for the protection of the Olympic Symbol against its unauthorized use for commercial purposes,

Recalling the resolution adopted by the Council at its fourth session held in Salisbury, Zimbabwe, in December 1980, fully supporting the Draft Nairobi Treaty on the Protection of the Olympic Symbol contained in document OS/DC/3 of the World Intellectual Property Organization (WIPO),

[Document OS/DC/4 (continued)]

Taking into account that this fifth session of the ESARIPO Council is taking place in Nairobi, on the eve of the Diplomatic Conference for the adoption of the said Treaty, convened by WIPO to be held also in Nairobi on September 24 and 25, 1981,

Strongly recommends that all members and potential member States of ESARIPO take an active part in the deliberations of the Diplomatic Conference in order to ensure the adoption of the said Treaty at Nairobi."

OS/DC/5

September 5, 1981 (Original: English)

UNITED KINGDOM

Articles 1 and 2(1)(ii). Proposals by the Delegation of the United Kingdom

Article 1

Any State party to this Treaty shall be obliged, subject to Articles 2 and 3, to refuse or to invalidate the registration as a mark and to prohibit by appropriate measures the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol, except with the authorization of the International Olympic Committee.

Article 2(1)(ii)

(ii) the continued use for commercial purposes of any mark or other sign consisting of or containing the Olympic symbol, in that State by any person or enterprise who or which has lawfully started such use in the said State prior to the date on which this Treaty enters into force in respect of that State.

OS/DC/6

September 25, 1981 (Original: English)

UNITED STATES OF AMERICA

Articles 1 and 2. Proposals by the Delegation of the United States of America

I

Article 1

Substitute "National" for "International."

[Document OS/DC/6 (continued)]

OR

After "Committee" insert "and with the concurrence of the National Olympic Committee."

OR

Article 2

Add new paragraph (4)

"(4) The obligation provided for in Article 1 shall not bind any State party to this Treaty whose national law on September 25, 1981, protects the Olympic symbol."

II

Article 2

Add to the end of paragraphs (1)(i) and (1)(ii) after the word "State" the following: "or during any period during which the obligation provided for in Article 1 is considered as suspended under Article 3."

OS/DC/7

September 25, 1981 (Original: English)

FRANCE, GERMANY (FEDERAL REPUBLIC OF), GREECE, IRELAND, ITALY, NETHERLANDS, UNITED KINGDOM

New Article. Proposal by the Delegations of France, Germany (Federal Republic of), Greece, Ireland, Italy, the Netherlands and the United Kingdom

In Chapter II of the draft Treaty the following new article should be added:

"The foregoing provisions shall, as regards States party to this Treaty which are members of a customs union or free trade area, be without prejudice to their commitments under the instruments establishing such a customs union or free trade area, in particular as regards the provisions governing the free movement of goods or services between those States."

OS/DC/8

September 25, 1981 (Original: English)

FEDERAL REPUBLIC OF GERMANY

Article 2. Proposal by the Delegation of the Federal Republic of Germany

Add the following paragraph to Article 2:

"No State shall be obliged to prohibit the use of the Olympic symbol where that symbol is used in the mass media in connection with information on the Olympic movement or its activities."

OS/DC/9

September 25, 1981 (Original: French)

FRANCE

Articles 1 and 3. Proposal by the Delegation of France

Delete Article 3 and add to Article 1 a second paragraph which should read as follows:

"Any State may provide that the conditions under which the International Olympic Committee grants an authorization applying on its territory shall be the subject of an agreement between the International Olympic Committee and the National Olympic Committee of that State, which will in particular determine the part of the said National Olympic Committee in any revenue obtained for granting the authorization."

OS/DC/10

September 25, 1981 (Original: English)

JAPAN

Articles 4, 5 and 9. Proposal by the Delegation of Japan

In Articles 4(1)(i), 5(1) and (2) and 9(ii) add after the words "of ratification" the words ", acceptance or approval,".

OS/DC/11

September 25, 1981 (Original: Russian)

GROUP D COUNTRIES

Article 1. Proposal by the Countries of Group D

Insert after the words "Olympic symbol" (second line from the bottom) the following words: "in conformity with the definition contained in the Charter of the International Olympic Committee."

OS/DC/12

September 25, 1981 (Original: Spanish)

MEXICO

Articles 4, 8 and 9. Proposals by the Delegation of MexicoArticle 4

In paragraph (1), add after the words "(hereinafter referred to as "the Paris Union")" the words "or of the United Nations or any of its Specialized Agencies."

Article 8

In paragraph (2), add after the words "Paris Union" the words "or of the United Nations or any of its Specialized Agencies."

Article 9

In the second line, add after the words "Paris Union" the words "or of the United Nations or any of its Specialized Agencies."

OS/DC/13

September 25, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

Rules of Procedure of the Diplomatic Conference Adopted on September 24, 1981

Editor's Note: The Rules of Procedure as adopted are those set forth in document OS/DC/2 (Provisional Rules of Procedure), which are reproduced as from page 28 of these Records. Document OS/DC/13 contains only a reference to the Provisional Rules of Procedure.

OS/DC/14

September 26, 1981 (Original: English/French/
Russian/Spanish)

SECRETARIAT OF THE CONFERENCE

Draft Nairobi Treaty on the Protection of the Olympic Symbol

Editor's Note: The text of the draft Nairobi Treaty which appears in document OS/DC/14 is, with some exceptions, identical with the final text as appearing on the odd-numbered pages 11 to 19 of these Records. The differences between this draft and the final text are listed hereunder.

1. Article 4. Instead of the words "any other" before "economic grouping," this draft contains the word "another."
2. Article 8. In this draft, the words ", and thereafter at Geneva until June 30, 1983," appear between square brackets, and the word "in" before "Geneva" was used instead of "at."
3. Article 9. In this draft, the words "in Nairobi" appear between square brackets, and the word "in" before "Nairobi" was used instead of "at."

OS/DC/15

September 26, 1981 (Original: English/French/
Russian/Spanish)

SECRETARIAT OF THE CONFERENCE

Nairobi Treaty on the Protection of the Olympic Symbol Adopted on
September 26, 1981

Editor's Note: The text as appearing in document OS/DC/15 is the final text which is reproduced on the odd-numbered pages 11 to 19 of these Records.

OS/DC/16

September 26, 1981 (Original: English/French/
Russian/Spanish)

SECRETARIAT OF THE CONFERENCE

Nairobi Treaty on the Protection of the Olympic Symbol Adopted at Nairobi on
September 26, 1981

Editor's Note: Document OS/DC/16 contains, in four languages (English, French, Russian and Spanish), the text of the Nairobi Treaty as adopted on September 26, 1981, and as presented for signature on October 24, 1981 (see the odd-numbered pages 11 to 19 of these Records).

OS/DC/17

October 2, 1981 (Original: English/French/
Russian/Spanish)

SECRETARIAT OF THE CONFERENCE

Corrigenda to the Russian Text of the Treaty in documents OS/DC/15 and 16

The following corrections are to be made in the Russian text of the Treaty as appearing in documents OS/DC/15 and 16:

- (i) in Article 1, the third and fourth commas are omitted;
- (ii) in Article 2(ii), at the end of the first word, the letter "e" is replaced by the letter "я";
- (iii) in Article 10(iii), at the end of the second word, the letter "y" is replaced by the letter "e."

OS/DC/18

October 24, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

Signatures. Memorandum by the Secretariat

The following States signed, as of October 24, 1981, the Nairobi Treaty on the Protection of the Olympic Symbol: Argentina, Austria, Chile, Congo, Ghana, Greece, Hungary, Indonesia, Israel, Ivory Coast, Kenya, Mexico, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Switzerland, Trinidad and Tobago.

DOCUMENT SERIES OS/DC/INF

List of Documents OS/DC/INF

Document Number	Presented by	Subject
1	International Bureau of WIPO	General information
2	Secretariat of the Conference	First provisional list of participants
3	Secretariat of the Conference	Officers
4	Secretariat of the Conference	Second provisional list of participants
5	Secretariat of the Conference	List of participants
6	Secretariat of the Conference	List of documents

Text of Documents OS/DC/INF

OS/DC/INF/1

May 11, 1981 (Original: English)

INTERNATIONAL BUREAU OF WIPO

General Information

Editor's Note: This document contains general information for participants concerning the organization of the Conference, formalities and other useful data. It is not reproduced in these Records.

OS/DC/INF/2

September 24, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

First Provisional List of Participants

Editor's Note: This document contains the first provisional list of participants. It is not reproduced here. For the final list of participants, see from page 121 to page 142 of these Records.

OS/DC/INF/3

September 24, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

Officers

Editor's Note: This document contains the list of officers of the Conference. It is reproduced on page 143 of these Records.

OS/DC/INF/4

October 5, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

Second Provisional List of Participants

Editor's Note: This document contains the second provisional list of participants. It is not reproduced here. For the final list of participants, see from page 121 to page 142 of these Records.

OS/DC/INF/5

October 24, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

List of Participants

Editor's Note: This document contains the final list of participants, which is reproduced from page 121 to page 142 of these Records.

OS/DC/INF/6

October 24, 1981 (Original: English/French)

SECRETARIAT OF THE CONFERENCE

List of Documents

Editor's Note: This document contains the full list of documents published before or during the Conference. All these Conference documents are listed on pages 25, 26 and 62 of these Records.

SUMMARY MINUTES

SUMMARY MINUTES
OF THE MEETINGS OF THE DIPLOMATIC CONFERENCE
FOR THE ADOPTION OF A TREATY
ON THE PROTECTION OF THE OLYMPIC SYMBOL

President: J.K. KAMERE (Kenya)

Vice-Presidents: D.J. COWARD (Kenya)
A. AFENDULI (Greece)
V. VANIŠ (Czechoslovakia)

Secretary General: K. PFANNER (WIPO)

Assistant Secretary General: L. BAEUMER (WIPO)

First Meeting Thursday, September 24, 1981 Morning
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Opening of the Conference

1. Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President) declared the meeting open (item 1 of the provisional agenda of the Diplomatic Conference, document OS/DC/1) and gave the floor to Mr. Njonjo, Minister for Constitutional and Home Affairs of Kenya, who was to deliver an address to the Conference (item 2 of the provisional agenda).

2.1 Mr. NJONJO (Minister for Constitutional and Home Affairs, Kenya) made the following statement:

2.2 "Mr. Director General, your Excellencies, distinguished Delegates, Ladies and Gentlemen, it is not only a very great honor to have been invited to make the opening address to this Diplomatic Conference on behalf of my Government, but it is also a very great pleasure to me personally. I say this because, as you may recall, as long ago as December 1977, I first wrote to you

drawing the attention of the World Intellectual Property Organization to the tremendous economic harm which National Olympic Committees were suffering in carrying out their activities in the field of sport because the Olympic symbol was not protected and was therefore subject to very wide exploitation. This resulted in the large-scale use by commercial interests of a design of world-wide repute without any benefits whatsoever to sport, a situation which, for the developing countries in particular, my Government felt was completely unacceptable.

2.3 "We sought your assistance, Sir, in remedying this patent abuse of an international sporting symbol and you will recall we proposed that a solution existed either in the form of a special convention or a protocol to the Paris Convention. At that point, if I may use a sporting term, I passed the ball to the WIPO court.

2.4 "Although this Conference has taken several years in preparation, today's proceedings mark the culmination of a great deal of dedicated work on the part of many interested parties. That we have been able to reach the stage of a diplomatic conference to consider a draft convention is, I must say, a tribute to your personal efforts, to those of the International Olympic Committee and to our colleagues in a number of States that have taken an interest in seeking to control the commercial use of the Olympic symbol in the interests of our young athletes and other sportsmen.

2.5 "I am sure that those more qualified than a simple lawyer like myself will be better able to explain the advantages that lie in international protection of this symbol, which we all recognize as the representation of the highest standards in sport. I would only say that those countries which are prepared to protect the symbol in the way proposed in the draft Treaty will be able to ensure, through the good offices of the International Olympic Committee, that the major part of the proceeds of revenue from licensing the symbol in their respective countries will in future be available to them for the furtherance of sports and, in this context, I mean through the building of stadia, swimming pools and the like and in the financing and in the training of competitors in both local and international meetings and for defraying their travelling expenses to the latter events and the like.

2.6 "It has amazed me that, until now, no serious effort appears to have been made to tap this source of potential income and that commercial interests, which are usually only concerned with the making of profits from international sport, have been freely allowed to make use of the symbol without being required to plough back some of those profits for the furtherance of sports. This is, of course, particularly of concern in developing countries, so short of finance to subsidize sports and to meet the heavy expenses involved in international competition.

2.7 "Now, I am aware that you have only a very short period in which to deliberate on these matters and it therefore behoves me to keep my observations to the minimum required, not only to disclose my personal interests in the important matter you are to discuss, but also to extend to you all a very warm welcome to Kenya.

2.8 "I hope that those of you who are staying on for the Paris Convention Revision Conference will have sufficient time to undertake a few safaris in order to see what Kenya has to offer outside our capital city, Nairobi. But, for this present meeting, the time allowed is indeed very short. I am sure that in the spirit of cooperation those distinguished delegates who have not been completely converted to the viewpoint of the developing countries on the need for protection of the Olympic symbol will, nonetheless, allow a decision to be reached on the proposals put before this meeting within the short period available. The concept of protection of this symbol is one which, surely, would commend itself to all countries and groupings. May I, in conclusion, express my sincere hope that this meeting can reach a successful conclusion. The matters to be decided are, I suggest, straightforward. Everyone is interested in the development of sport and, if there was the case in which we should not see a Law-of-the-Sea-type meeting, this must be it.

2.9 "If we are able to reach international agreement on this matter, we will have made a major contribution to the development of sport all over the world. This is a conference which has, as its objective, the assistance of a cause which surely everyone must support. I wish your deliberations every success. Thank you, Ladies and Gentlemen."

3.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President) made the following statement:

3.2 "Mr. Minister, I am sure that I speak in the name of all of us present in this room when I thank you for your opening speech and for the personal attention that you have given to the matter of the protection of the Olympic symbol now for several years. It is only appropriate and fair to remember that Kenya really has two good reasons to sponsor this Conference: one is that the participation of African athletes in the Olympic Games, more or less at the time of the Melbourne Olympic Games mainly started on initiatives taken in this country; and the second one is that, at the legal level, as far as the protection of the symbol is concerned, the original proposal to deal with this matter, as you have recalled, Mr. Minister, in your opening speech, originated from this country. We are very grateful to Kenya for its hospitality, for its initiative, and to you, Sir, personally, for having come to this opening meeting. Thank you very much."

Rules of Procedure

3.3 The Director General of WIPO proceeded to item 3 of the provisional agenda, namely the adoption of the Rules of Procedure of the Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol (hereinafter "the Rules of Procedure of the Diplomatic Conference"). He recalled that those Rules were established pursuant to the decisions taken by the Assembly of the Paris Union when it met in preparation for the Diplomatic Conference.

4.1 Mr. KIRK (United States of America) made the following statement:

4.2 "During the course of the first session of the Diplomatic Conference to revise the Paris Convention for the Protection of Industrial Property, which was held in Geneva in February and March of last year, the United States Delegation repeatedly objected to the adoption of the Rules of Procedure because of the contents of Rule 36, paragraph (1). It was then, and continues to be, our view that the rule of unanimity for the adoption of a final text, which was a traditional practice for revision of the Paris Convention that ripened into a principle of customary international law, can itself be changed only by unanimous agreement. Accordingly, it is our conclusion that no Rules of Procedure were adopted at the first session of the Diplomatic Conference to revise the Paris Convention. We can, however, accept the adoption of rules of procedure such as those contained in document PR/DC/15, with the clear understanding that this Delegation does not regard those Rules of Procedure adopted in so far as the Diplomatic Conference for the Revision of the Paris Convention is concerned."

5. Mr. DAVIS (United Kingdom), speaking in the name of Group B, said that certain points of the draft Treaty would need to be discussed. He therefore questioned the advisability of Rule 4 of the Rules of Procedure, which reads as follows: "The present Diplomatic Conference shall have no subsidiary bodies. All negotiations shall take place in, and all decisions shall be made by, the plenary of the Diplomatic Conference." He proposed that two bodies be created, a small working group and a drafting committee.

6.1 Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, recalled that the Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention had been adopted by all three Regional Groups after lengthy deliberations at the first session in Geneva. For a single delegation to try to neutralize the work which had been achieved by not less than 90 other delegations was inconsiderate.

6.2 As regards the proposal made by the Spokesman of Group B to create subsidiary bodies, the Spokesman of the Group of Developing Countries said that his Group would accept it if it were made in all good faith and a wish for genuine negotiation of political choices in the draft Treaty and not just for the sake of reopening matters on which understandings had already been achieved.

7. Mrs. NICODEME (France) said that her Delegation would prefer to have the Rules of Procedure of the Diplomatic Conference contain no reference to those of the Diplomatic Conference on the Revision of the Paris Convention. The Delegation of France proposed that the Secretariat rewrite the Rules of Procedure in such a way as to make them distinct from those of the Diplomatic Conference on the Revision of the Paris Convention, notably in order to avert the risk of all the discussions that occurred in 1980 on the latter resuming within the present Conference.

8.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President) said that the proposal made by the Delegation of France would imply a postponement of the Diplomatic Conference and, moreover, would be contrary to the decision of the Assembly of the Paris Union according to which the same rules would apply as in the Conference on the Revision of the Paris Convention with certain exceptions, among them the rule on the required majority for voting.

8.2 The Director General of WIPO considered that the statement made by the Delegation of the United States of America only intended to preface its acceptance of the present Rules of Procedure with a reminder.

8.3 As far as proposals for subsidiary bodies were concerned, the Director General of WIPO made two suggestions: (i) that there be a Contact Group chaired by the President of the Conference and composed of the Group Spokesmen and an additional number of delegations as agreed upon by those Spokesmen; (ii) that the Drafting Committee of the Conference on the Revision of the Paris Convention act in the meantime as the drafting committee for this Conference.

9.1 Mr. SANTOS (Philippines) said that, in view of the constraints of time and the fact that all interested delegations were represented in the Conference, it would be expeditious to have the Conference consider the draft Treaty.

9.2 The speaker declared that for small delegations like his, it would be difficult to be represented in subsidiary bodies. Moreover, the very question of subsidiary bodies would be of no interest to the Conference.

9.3 The Delegation of the Philippines had no objection to the suggestions made by the Director General of WIPO. It proposed that the Contact Group itself should be determined.

10.1 Mr. GUEBLAOUI (Tunisia) confessed that he was disappointed with the turn that the discussions were already taking, and above all with the statements that had just been made.

10.2 He asked whether it was indeed the President's Contact Group that would decide on the working group suggested by the Delegation of the United Kingdom.

11.1 Mr. BOGSCH (Directeur General of the World Intellectual Property Organization, acting as President) replied that his suggestion was not that the Contact Group should set up a working group, but rather that it should do the work of a working group.

11.2 The question that had been left open was that of the number of persons who should accompany the Spokesman of each of the three Regional Groups.

12. Mr. DAVIS (United Kingdom) explained that his proposal to have subsidiary bodies had been made in order to allow the Conference to resort to a machinery that could help to solve problems if any arose. There was no intention at all to hold up the Conference.

13. Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President) observed that his suggestion meant a derogation to Rule 4 of the Rules of Procedure.

14.1 Mr. ZUBAREV (Soviet Union) reminded the Conference that Group D, as far as it was concerned, had unanimously supported the Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention during the first session and considered them as having been adopted.

14.2 The Spokesman of Group D was of the opinion that the Rules of Procedure of the Conference did not meet with opposition from the Delegation of the United States of America in respect of the majority required for the adoption of the Treaty.

14.3 The Spokesman of Group D proposed that Rule 4 of the Rules of Procedure be amended as proposed by the Delegation of the United Kingdom and that the Conference start its work immediately thereafter.

15. Mr. VANDERPUYE (Ghana) declared that he would oppose fragmentation of representation in any body to be created. He expressed the view that the Conference could possibly sit without a president so that it could constitute itself into a committee as a whole in order to allow all delegations to participate in the work of the Conference.

16. Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President) repeated the two alternatives he had suggested: (i) to solve the question immediately and have a Contact Group which would be convened whenever it was necessary and have the Drafting Committee of the Diplomatic Conference on the Revision of the Paris Convention act as the drafting committee for this Conference; or (ii) to amend Rule 4 so as to read: "The present Diplomatic Conference may set up subsidiary bodies" and leave the whole question to the future President of the Conference.

17. Mr. SANTOS (Philippines) proposed that the first sentence of Rule 4 be amended so as to read: "The present Diplomatic Conference shall have no subsidiary bodies, unless otherwise decided by the Plenary of the Conference."

18. Mr. VANDERPUYE (Ghana) proposed that the suggestion made by the Director General of WIPO to have a Contact Group be adopted and that Rule 4 be left as it was, without any amendment. He understood that the Delegation of the United Kingdom had expressed its wish to have a forum, but that forum did not need to be a formal one.

19. Mr. DAVIS (United Kingdom) preferred that Rule 4 be amended as proposed by the Delegate of the Philippines.

20. Mr. ZUBAREV (Soviet Union) proposed that Rule 4 of the Rules of Procedure be amended as proposed by the Delegation of the Philippines and the draft Treaty be discussed further as to its substance.

21.1 Mr. LASSE (Trinidad and Tobago) agreed with the Spokesman of the Group of Developing Countries that a Contact Group should be set up immediately so as to avoid any delay in the work of the Conference.

21.2 The speaker asked the Delegation of the Philippines whether it would agree to withdraw its proposal, leaving for discussion the suggestion made by the Director General of WIPO.

22. Mr. BOGSCH (Director General of the World Intellectual Property Organization, acting as President), after consultations with the Spokesmen of the three Regional Groups, submitted to the Conference the following suggestion: there would be a Contact Group consisting of not more than five delegates for each Regional Group; Rule 4 of the Rules of Procedure would remain unchanged; and finally, the Drafting Committee of the Diplomatic Conference on the Revision of the Paris Convention would act as the drafting committee for this Conference.

23. The proposal as agreed upon by the Spokesmen of the three Regional Groups was unanimously adopted.

Election of the President of the Conference; Adoption of the Agenda of the Conference; Election of the Vice-Presidents of the Conference

24.1 Mr. VANDERPUYE (Ghana) expressed his Delegation's gratitude to the Delegation of Kenya, the people and Government of Kenya for their hospitality.

24.2 He proposed that Mr. James Kamere, Attorney General and Head of the Kenyan Delegation, be President of the Conference.

24.3 As Vice-Presidents, he proposed: (i) for the Group of Developing Countries, Mr. Coward, Registrar-General and Alternate Head of the Kenyan Delegation; (ii) for Group B, Mr. Afenduli, Ambassador of Greece and Head of the Greek Delegation; (iii) for Group D, Mr. Vaniš, Vice-President of the Office for Inventions and Discoveries and Head of the Delegation of Czechoslovakia.

25. Mr. DAVIS (United Kingdom) expressed his Delegation's support for the proposal made by the Delegation of Ghana.

26.1 Mr. ZUBAREV (Soviet Union) thanked the people and Government of Kenya for their warm hospitality.

26.2 He expressed his Delegation's support for the proposal made by the Delegation of Ghana.

27. The Conference unanimously elected Mr. J. Kamere (Kenya) as President of the Conference, Mr. D. Coward (Kenya), Mr. A. Afenduli (Greece) and Mr. J. Vaniš (Czechoslovakia) as Vice-Presidents.

28.1 The PRESIDENT thanked the Conference for having elected him as President and expressed the hope that the deliberations to be held in the Conference would help to solve problems of intellectual property ownership.

28.2 The President proceeded to the adoption of the agenda.

29. The agenda was unanimously adopted.

General Opening Declarations

30.1 Mr. ALEXANDER (International Olympic Committee (IOC)) made the following statement:

30.2 "Mr. President, your Excellencies, distinguished guests, Ladies and Gentlemen, at this time, at Baden-Baden in the Federal Republic of Germany, the President of the International Olympic Committee, Juan Antonio Samaranch of Spain, is presiding over a world-wide Olympic Congress of some one thousand five hundred delegates, planned since 1973. But for this compelling and long-standing commitment I know that his deep sense of duty and energetic enthusiasm would have brought him, as a first priority, to this important

assembly to confirm, by his personal presence, his acknowledgement of the immense influence and international significance of your Diplomatic Conference. President Samaranch has therefore conferred upon me the honor, as the International Olympic Committee member in Kenya, my country, to read a brief statement, prepared by him, as follows: 'I shall at this stage abstain from any technicalities concerning the draft Convention before you and limit myself to the expression of the International Olympic Committee's gratitude to the Director General of WIPO and to the General Assembly of the Paris Union for convening and preparing this special Conference. The International Olympic Committee's thanks also go to the Government of Kenya which allowed this Conference to be held in Nairobi. The International Olympic Committee, which considers the draft Convention as an excellent basis for an international treaty, wishes to underline the enormous importance of the treaty for the International Olympic Committee itself and for the National Olympic Committees of the world. In our troubled times, sport is surely a form of defense against the harmful influences to which young people are subjected throughout the world. The universally known emblem of the five interlaced rings is of the utmost moral significance for all those connected with sport. During the many years since the renovation of the Games, those who tried to take advantage of it for personal purposes or benefits are innumerable. This symbol, designed by Coubertin himself, represents the higher values of education by and through sport, and we cannot accept its misuse for other goals. In addition, the income flowing from the licensing of the use of emblems incorporating the Olympic symbol, if not constantly reduced by unlawful utilization of that world-known and universally familiar design, may procure the resources necessary for training, the building of sports infrastructures and facilitating the attendance of athletes at the Olympic Games--termed in the Olympic Charter the great sport festival for young people. The International Olympic Committee therefore expresses the hope that at the end of these two days, there will be a new convention in existence and that ratification or accession will take place in the very near future, well before the next Olympic Games in 1984.'

31.1 Mr. HAY (Canada) expressed his Delegation's support for the objectives of the draft Treaty and its willingness to do anything in its power to facilitate the work of the Conference towards a successful completion.

31.2 The Delegation of Canada had some reservations as to the restricted number of delegates--five--in the Contact Group and asked how those five would be selected.

32. Mr. DAVIS (United Kingdom) said he had noted that certain countries had strong feelings about membership in the Contact Group. He therefore asked the President that the Regional Groups be given the possibility to consult each other on the method of selecting countries.

33.1 Mr. ZUBAREV (Soviet Union) said that his country shared the concern of the International Olympic Committee (IOC) as to the use of the Olympic symbol for commercial purposes. As a non-governmental organization, the IOC had no legal means to ensure protection for its symbol under the Paris Convention on the Protection of Industrial Property. The introduction of international protection of the Olympic symbol would give to the IOC the legal grounds to prevent acts of unauthorized commercial use of that symbol.

33.2 The Delegation of the Soviet Union had noted with keen interest the IOC's intention to use the revenue received from granting authorization to use the Olympic symbol for the purposes of financing sports development, establishing new sports facilities and training athletes, particularly in developing countries. The speaker's Delegation was sure that the IOC would distribute that revenue on a just basis with due consideration to the needs of the countries concerned.

33.3 For all the reasons mentioned, the Delegation of the Soviet Union welcomed the concept of granting special protection to the Olympic symbol by the conclusion of a special instrument. It also fully supported the main principles contained in the draft Treaty.

34.1 Mr. VANDERPUYE (Ghana) noted that the treaty under consideration had as one of its chief aims to raise fees by licensing the use of the Olympic symbol and to devolve the revenue to the National Olympic Committees. In that process, the principal beneficiaries would be developing countries.

34.2 The Delegate of Ghana urged all delegations to give their full support to the draft Treaty.

35.1 Mr. PEREIRA BASTOS (Portugal) said that, thanks to the Olympic ideal defended by Baron Pierre de Coubertin, there was a universal movement whose sole purpose was to develop genuine friendship between peoples. According to the speaker, the present Conference was not concerned merely with the commercial protection of the Olympic symbol but with the Olympic ideal itself.

35.2 The speaker said that Portugal had for a number of years been protecting the Olympic symbol and designation by means of Decree-Law 41784: that Decree provided in its Article 1 that "the Portuguese Olympic Committee is accorded the exclusive right to the use of the Olympic motto and symbol and to its incidental or other display," and in its Article 2 that "the authorization to designate sporting competitions as being of Olympic purpose shall be within the exclusive competence of the Portuguese Olympic Committee."

35.3 The Delegation of Portugal defended and encouraged any movement whose purpose was to institutionalize the protection of the symbol at the international level by means of a special treaty.

35.4 It did however recognize that the protection would not be easy to provide, owing to the importance of the interests at stake and also the irreversible character of acquired rights.

35.5 The Delegation of Portugal, which considered inadequate the specification in the draft Treaty of the instances in which the Olympic symbol had to be protected, would present amendment proposals in due course.

36. Mr. COWARD (Kenya), referring to the statement made by the Minister for Constitutional and Home Affairs, Mr. Njonjo, and to the intervention of the Spokesman of the Group of Developing Countries, urged the Conference to do its utmost in order to finish its work within the short time allotted to it.

37.1 Mr. BALLEYS (Switzerland) said that the Government of Switzerland was conscious of the place and the role that the Olympic movement had at the present time in international relations, and that it recognized the universal vocation and the importance, in the field of sport, of the International Olympic Committee (IOC), the supreme body of the movement, and also the scope of the ideals that had inspired its activity for decades.

37.2 The Swiss Delegation wished to lay special emphasis on the value attributed by its Government to the presence of the IOC in Switzerland, a country in which it had had its headquarters since 1915 and to which it was tied by bonds of profound friendship and trust.

37.3 It was in that context and in a receptive frame of mind that the Swiss Delegation was embarking on the work of the Conference. It hoped that solutions would be found and that the Conference would be crowned with success.

38.1 Mr. BENCHEHIDA (Algeria) congratulated the President on his election and thanked the Government of Kenya for its hospitality and for the organization of the Conference.

38.2 The Algerian Delegation stated its support for all proposals designed to bring about better protection of the Olympic symbol.

38.3 The speaker stated that the Olympic symbol currently enjoyed trademark protection in Algeria, as a result of a filing made by the IOC.

39.1 Mrs. MAYER-DOLLINER (Austria) congratulated the President on his election.

39.2 She then recalled the long history of the Olympic Games, the importance of their role in ancient and modern times, the active participation of Austria in the Olympic movement and its role as organizer of certain Olympic Games.

39.3 She affirmed the willingness of her Delegation to do its best for a successful outcome of the Diplomatic Conference.

40.1 Mr. PROSEK (Czechoslovakia) congratulated the President on his election and thanked the people and Government of Kenya for hosting the meetings.

40.2 The speaker emphasized the noble and peaceful objectives of the Diplomatic Conference and stated his Delegation's support for the draft Treaty.

41.1 Mr. TANG (China) extended his Delegation's thanks to the Government of Kenya for hosting the Diplomatic Conference and congratulated the President on his election.

41.2 The speaker expressed his country's appreciation of the role played by the IOC which, in collaboration with the National Olympic Committees, had made important contributions to the promotion of sports activities and to building up people's health throughout the world. In addition, through the organization of the Olympic Games, it had played a positive role in strengthening friendly contacts between people of different countries.

41.3 The Olympic symbol had become the symbol of physical culture and of friendship. It was therefore necessary to protect it and prevent any use thereof for commercial purposes without the IOC's authorization.

41.4 As far as China was concerned, neither the Olympic symbol nor any sign containing the symbol had been registered or used as a trademark; the competent authorities in China had always paid attention to that very point when examining trademark applications.

41.5 The speaker expressed his Delegation's support for the principle of protection of the Olympic symbol as implied in the draft Treaty.

42.1 Mr. MILLS (Ghana), speaking as Delegate of Ghana and also in his capacity as Chairman of the Council of the Industrial Property Organization for English Speaking Africa (ESARIPO), urged all delegations to do their utmost to make the draft Treaty a reality, to assist developing countries in developing sports, to enable them to participate and to compete fully in international sports.

42.2 He then read out a resolution passed by the Council of ESARIPO the preceding day in connection with the Conference:

"RESOLUTION CONCERNING THE OLYMPIC SYMBOL
(Adopted by the Council at the Fifth Session)

The Council of the Industrial Property Organization for English-Speaking Africa (ESARIPO), at its fifth session meeting in Nairobi on September 22 and 23, 1981,

Having regard to the urgent need to take effective measures for the protection of the Olympic Symbol against its unauthorized use for commercial purposes,

Recalling the resolution adopted by the Council at its fourth session held in Salisbury, Zimbabwe, in December 1980, fully supporting the Draft Nairobi Treaty on the protection of the Olympic Symbol contained in document OS/DC/3 of the World Intellectual Property Organization (WIPO),

Taking into account that this fifth session of the ESARIPO Council is taking place in Nairobi, on the eve of the Diplomatic Conference for the adoption of the said Treaty, convened by WIPO to be held also in Nairobi on September 24 and 25, 1981,

Strongly recommends that all members and potential member States of ESARIPO take an active part in the deliberations of the Diplomatic Conference in order to ensure the adoption of the said Treaty at Nairobi."

43.1 Mr. BOBROVSZKY (Hungary) extended his Delegation's congratulations to the President on his election and its gratitude to the Government of Kenya for hosting the meeting.

43.2 The speaker's Delegation attached great importance to the question of protection, through an international instrument, of the Olympic symbol, which represented a great tradition in sports and served the cause of noble competition to promote friendship in the world.

43.3 He explained that, under the law of his country, the use without authorization of the word "Olympic" and of the Olympic symbol had already been prohibited for more than a quarter of a century.

43.4 His Delegation was therefore of the opinion that such unauthorized use of the Olympic symbol should also be prohibited by means of an international instrument and that the revenue received for granting authorizations for the use of the Olympic symbol be used for the purposes of establishing new sports facilities and training athletes, particularly in developing countries.

43.5 The Delegation of Hungary supported the basic principles of the draft Treaty.

44.1 Mr. RITZ (Liechtenstein) subscribed to the congratulations and thanks expressed by the previous delegations.

44.2 He said that it was as long ago as in 1964 that his country had enacted a law on the Olympic symbol, prohibiting the filing of the symbol as a mark and authorizing its use only in the interests of the IOC and the Government. The domestic legislative provisions had the effect on the one hand of avoiding the misuse of the symbol, and on the other hand of permitting its use only if such were in keeping with the objectives of the IOC.

44.3 The Government of Liechtenstein was therefore following the work of the Conference with interest. It would analyze the results of that work with care, when the time came, in the light of the legislation currently in force.

45.1 Mr. CAMELI (Italy) said that the Italian Olympic Committee strongly believed in the principle of protection of the Olympic symbol.

45.2 The Delegation of Italy was in favor of the adoption of the draft Treaty.

46.1 Mr. LASSE (Trinidad and Tobago) congratulated the President on his election and thanked the people and Government of Kenya for hosting the Diplomatic Conference.

46.2 He expressed his Delegation's support for the draft Treaty and urged speedy adoption thereof.

47.1 Mr. NTABGOBA (Industrial Property Organization for English-Speaking Africa (ESARIPO)) congratulated the President on his election.

47.2 The speaker noted that certain delegations had expressed the wish to make changes in the draft Treaty. The view of the Council of ESARIPO was that the draft Treaty as proposed was most appropriate for adoption.

47.3 Speaking on behalf of ESARIPO, he expressed his support for the draft and called upon all the delegations to adopt the draft Treaty without amendments.

48. After having heard the convening of the meetings of the Regional Groups, the Conference decided to adjourn the meeting until the afternoon of the same day.

Second Meeting
Thursday, September 24, 1981
Afternoon

General Opening Declarations (continued)

49. Mr. BOGSCH (Director General of the World Intellectual Property Organization) informed the Conference that the President could not chair the meeting because of previous commitments and asked Mr. Coward, first Vice-President, to take the chair.

50. Mr. COWARD (Acting President) thanked the Conference for having elected him as Vice-President.

51.1 Mr. AFENDULI (Greece) addressed his congratulations to the President and the other Vice-Presidents and his thanks to the Government and people of Kenya. He also thanked the Conference for having elected him as Vice-President.

51.2 His Delegation was of the opinion that, if the Olympic symbol could be protected and its exploitation could ensure the promotion of sporting activities, it would be possible to discard to a great degree the pressures of a politico-economic nature, which were weighing on the fulfilment of the Olympic ideals, and therefore to contribute decisively to the continuing of that institution and to the realization of its final objectives, namely the unification of all peoples throughout the world and the worldwide development of sporting activities.

51.3 His Delegation fully supported the draft Treaty as contained in document OS/DC/3.

51.4 The speaker further added that, for historical reasons, the position of his Delegation on the question of the Olympic symbol should be taken into consideration.

52. Mr. COWARD (Acting Chairman) asked whether the Spokesmen for the Regional Groups wished to make any general declarations.

53. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, confirmed his Group's position that the draft as it was proposed was clear and elegant and should not be amended.

54. Mr. DAVIS (United Kingdom), speaking in the name of Group B, proposed that the draft Treaty be examined article by article.

55. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, said that after thorough consideration, his Group had come to the conclusion that it could accept the draft Treaty as far as its principles were concerned. Group D would propose in due course some drafting amendments which would in no way change the substance of the text.

56. Mr. COWARD (Acting President) announced that he intended to have the draft Treaty considered article by article.

Article 1 (Obligation of States)

57. Mr. VANDERPUYE (Ghana) suggested that Article 1 be adopted as proposed in the draft.

58. Mr. DAVIS (United Kingdom), speaking in the name of Group B, proposed that Article 1 provide not only that the State had the obligation to prevent the registration of the Olympic symbol as a mark but should also have the possibility of cancelling a registration. His suggestion was based on the fact that in certain legislations the State had no power to prevent the registration of a sign as a mark. By adding the possibility of cancelling registrations, and hence reflecting other legal systems, Article 1 would allow more countries to accede to the Treaty.

59. Mr. BOGSCH (Director General of the World Intellectual Property Organization) noted that the Delegation of the United Kingdom had proposed for Article 1 a wording similar to that existing in Article 6ter(1)(a) of the Paris Convention which read as follows: "The countries of the Union agree to refuse or to invalidate the registration, and to prohibit by appropriate measures the use..."

60. Mr. GUEBLAOUI (Tunisia) considered that the proposal by the Delegation of the United Kingdom was a constructive one, and that it would be interesting to provide countries that did not have any system of ensuring the prior control of filings with the possibility of recourse to invalidation machinery.

61.1 Mr. VANDERPUYE (Ghana) agreed with the proposal made by the Delegation of the United Kingdom.

61.2 He pointed out, however, that the draft Treaty was intended to be a separate instrument and should neither be discussed nor construed in terms of any other convention.

62. Mr. ZUBAREV (Soviet Union) agreed with the proposal made by the Delegation of the United Kingdom.

63. Mr. DAVIS (United Kingdom), speaking in the name of Group B, further pointed out that, as far as the second part of the obligation in Article 1 of the draft was concerned, i.e. the obligation of the State to prevent the use of the Olympic symbol, his Delegation would rather see the obligation drafted in a different way so as to put on the State not an obligation to police an industrial property right but instead one to provide for the legal means for seeking redress in the case of unauthorized use.

64. Mr. GUEBLAOU (Tunisia) opposed the remarks made by the Delegate of the United Kingdom, and thought for his own part that it was entirely possible to establish, at international treaty level, a general rule placing the State under the obligation to prevent the registration or use of the Olympic symbol as a mark. It was then for the State to introduce the necessary domestic provisions in order to comply with its international obligation. The question whether it was for the State to discharge the obligation itself, or alternatively for third parties to initiate proceedings to prevent the unauthorized use of the symbol, was a matter for domestic law, and the present assembly was not the place for the discussion of such matters.

65.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization) agreed with the Delegate of Ghana that the text under consideration was meant to be an independent instrument.

65.2 He considered, however, that the insertion of words such as "by appropriate measures" would in no way detract from the value of the article and would indeed convey better the idea that it was up to the State to decide who was to initiate proceedings, the State itself or the holder of the right.

66. Mr. VANDERPUYE (Ghana) asked the Delegate of the United Kingdom to limit his interventions to broad declarations and to leave matters of detail to the President's Contact Group.

67.1 Mr. DAVIS (United Kingdom), speaking in the name of Group B, said he was convinced that it was helpful to the Plenary that, for the sake of clarity, he had treated the problems separately.

67.2 He explained that his interventions so far had been made on behalf of Group B as a whole but that some members of his Group wished to make separate interventions on specific points.

68.1 Mr. ZUBAREV (Soviet Union) stated that, as far as his Delegation was concerned, the formula as proposed by the Delegation of the United Kingdom--i.e. that Article 1 read as follows: "Any State shall be obliged to refuse the registration"--would suffice to convey the idea that the State had to take appropriate measures in order to fulfil its international obligations.

68.2 The speaker was of the opinion that discussion of certain issues at the plenary level would in fact be useful and important and would facilitate the work of the Contact Group.

69.1 Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, explained his position: the first proposal made by the Delegate of the United Kingdom was acceptable to him; the second one was unacceptable because it would contradict entirely the text as it stood.

69.2 He agreed that discussions be carried out in the Plenary.

70. Mr. LASSE (Trinidad and Tobago) suggested that all delegations make general observations in the Plenary.

71. Mr. PROSEK (Czechoslovakia) said that, although the Olympic symbol was defined in Rule 6 of the Olympic Charter, it was preferable, for the sake of legal clarity, that the Treaty contain expressly the definition of the Olympic symbol and its graphic representation, whether in the Treaty itself or in an annex thereto.

72.1 Mrs. STEUP (Federal Republic of Germany) wished to make general observations on two specific points.

72.2 The first one was related to the words "commercial purposes." In her Delegation's opinion, they were too broad and covered cases where the use while being commercial was in the first line in the interest of the IOC and had always been permitted without authorization, such as use of the Olympic symbol in newspapers reporting the Olympic Games. It seemed therefore appropriate that provision should be made for exceptions in respect of uses made in the media in connection with information on the Olympic Movement or the Olympic Games.

72.3 The second one concerned the relationship between the IOC and the National Olympic Committees (NOCs). According to the existing practice, it was the NOCs that gave licenses. The speaker suggested that, with respect to licensing, there be a combination of the IOC and the NOCs in order to enable interested persons to get, on request addressed to one competent authority of the Olympic Movement, one license covering all necessary authorizations by the IOC and NOCs.

73.1 Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, was of the opinion that the proposal made by the Delegate of Czechoslovakia would imply a delay in the work of the Conference. He preferred that the text remain as it stood.

73.2 As to the meaning of "commercial use," the Delegate of Ghana construed it as being primary use for commercial purposes of the Olympic symbol. In cases of doubt, the working documents of the Conference should be resorted to. He therefore suggested that the text of the draft Article should not be modified.

73.3 He asked the Delegate of the Federal Republic of Germany to explain further the second point she had raised.

74. Mr. RHODIUS (Netherlands) drew the Conference's attention to the existence of regional groupings of States or other groupings of States which might already have special legal arrangements differing from those proposed in the draft Treaty. He proposed that discussions take place in order to accommodate those existing legal arrangements.

75.1 Mr. KIRK (United States of America) pointed out that his country had long since protected the Olympic symbol, and would favor its international protection.

75.2 His Delegation's concern was related to the very principle of submitting the State to the control of a non-governmental organization. It wondered whether it should be the NOC and not the IOC which should have control of the licensing and use of the Olympic symbol.

75.3 He proposed that the Contact Group study that question.

76.1 Mrs. STEUP (Federal Republic of Germany) explained that, to her knowledge, the Olympic symbol as such (i.e. the rings) was not licensed for commercial use. What was licensed were emblems or other signs which, besides other elements, contained the symbol and were created by an NOC or an Organizing Committee of the Olympic Games, established also on the national

level. The license of an emblem or other sign, if only because of the other elements it contained, was and could be given only by the committee having created it. The draft Treaty reserved the right to license the symbol to the IOC. That meant that at least two licenses would be necessary, one from the IOC and another from the committee established on the national level and having created the emblem or sign. If interested persons intended to use an emblem or sign in several countries, e.g. for exported goods, the question needed clarification whether further licenses by other NOCs would be necessary or whether a license could be granted that covered use in other countries.

76.2 The speaker therefore suggested that the Contact Group study the question in order to find a solution allowing the prospective user of the Olympic emblem to apply to one authority only.

77.1 Mr. STRASCHNOV (International Olympic Committee (IOC)) gave some further explanations as to the terminology and the relationship between the IOC and the NOCs.

77.2 There was indeed a difference between the symbol and the emblem. The symbol itself consisted of the five rings, whether in black and white or in color, whereas the emblem consisted of the five rings, i.e. the symbol, and another design. Each NOC had its own emblem approved by the IOC and was entirely free to license the use of its emblem. The IOC did not require any share in the benefits resulting from that licensing. It had only to approve the emblem of the NOC and had the obligation to approve it unless that emblem led itself to confusion with the emblem of another NOC.

77.3 Bye-Law 7 to Rules 6 and 53 of the Olympic Charter provided specifically that "The use of the Olympic flag, symbol, flame and motto for commercial and publicity purposes of any kind is strictly forbidden." That would imply in case the IOC had the faculty of obtaining the protection as provided for in Article 1 of the draft Treaty, that the IOC would refuse any authorization for commercial purposes of the five rings alone, i.e. of the symbol.

77.4 The example given by the Delegate of the Federal Republic of Germany, namely the use of the symbol on the top of a page reporting on the Olympic Games, had always been tolerated by the IOC, although it was for commercial purposes. The same applied also to television. On the other hand, the use of the symbol on the cover of a book would not be authorized by the IOC. No license had been granted so far because the IOC would otherwise infringe its own Charter.

77.5 In reply to the observation made by the Delegate of the Federal Republic of Germany on double licensing, the speaker pointed out that no such double licensing had ever been granted since no license would be given for the use of the five rings alone, i.e., of the symbol.

77.6 The speaker recalled that one of the basic principles of the Olympic Charter was that licenses granted by the NOC of a country in respect of its emblem were strictly limited to the territory of that country, unless otherwise agreed upon with the NOCs of other countries on the intervention of the IOC. In developing countries there was not enough industry to make the use of the national emblem under license financially interesting. The industry was to be found in the industrialized countries. If those countries were allowed to export to developing countries without any payment of licenses, there would be a great loss or no additional income. That principle should therefore be preserved, otherwise the existing situation would deteriorate considerably.

77.7 The speaker finally gave two examples of how licenses were given in practice by an Organizing Committee of the Olympic Games (OCOG): firstly, it might include in its agreement with the firm concerned an obligation to export only to the territories of the NOCs with which the firm had a preliminary agreement; secondly, the OCOG might itself negotiate with the NOCs and obtain from them beforehand, in return for a share in the proceeds of the OCOG, authorization for the export of goods bearing the emblem of the Games. If the proposal to replace the words "International Olympic Committee" by "National Olympic Committee(s)" were accepted, it would destroy completely the whole internal machinery of the Olympic movement and, as a paradoxical result, the IOC would be obliged to ask all the NOCs to do their utmost to prevent ratification of or accession to the Treaty.

78.1 Mr. SHAMOTO (Japan) congratulated the officers on their election and extended his Delegation's thanks to the Government of Kenya for hosting the Conference.

78.2 The Delegate of Japan stated that it would be necessary to further discuss the question of the sovereign power of a State to decide whether a mark should be registered or not.

79. Mr. YOSMAOGLU (Turkey) said that in Turkey the registration of a mark was not mandatory and that it was difficult for the industrial property Office to determine whether or not a given mark was already being used. He therefore proposed that there be no mention of the question of the use of a mark in Article 1.

80. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, asked the countries of Group B to harmonize their views instead of making separate statements on fundamental points.

81. Mr. DAVIS (United Kingdom), speaking in the name of Group B, replied that in any diplomatic conference all States had a sovereign right to make separate statements.

82. Mr. BOGSCH (Director General of the World Intellectual Property Organization) emphasized that the Spokesman of Group B should give as many common views of Group B as possible.

83. Mr. GUEBLAOU (Tunisia) pointed out that his Group, the Group of Developing Countries, had done its best to present a single, united front. He requested that Group B do likewise.

84. The Conference decided to adjourn the meeting until the following morning.

Third Meeting Friday, September 25, 1981 Morning
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Article 1 (Obligation of States)(continued)

85. Mr. COWARD (Acting Chairman) opened the meeting.

86. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, reverted to the proposal made by the Delegation of Czechoslovakia in the previous meeting on the definition of the Olympic symbol. He said that Group D agreed that it would be more expedient to make reference to the Olympic Charter or to define the symbol in an annex to the Treaty or in some other form.

87.1 Mr. DAVIS (United Kingdom), speaking in the name of Group B, informed the Conference that he would let some members of Group B make statements on certain basic points.

87.2 He proposed to proceed article by article and to deal with those basic points progressively.

87.3 He said Group B had not yet a group position on the proposal made by the Delegation of Czechoslovakia but some members of Group B thought it was a good idea.

88. Mr. VANDERPUYE (Ghana) speaking in the name of the Group of Developing Countries, said his Group agreed with the Spokesman of Group D on the proposal made by the Delegation of Czechoslovakia.

89.1 Mr. UGGLA (Sweden) said his Delegation supported the idea of including the definition of the symbol in the Treaty.

89.2 His Delegation proposed that there be an annex containing a pictorial representation of the symbol.

90.1 Mr. GUEBLAOUI (Tunisia) said that his Delegation supported the proposal by Group D. He proposed that there be a provision containing the definition of the symbol and specifying its deposit, by the IOC, with WIPO, whereupon the latter would assume responsibility for sending copies to States that ratified the Treaty.

90.2 The Delegate of Tunisia considered the procedure proposed by the Delegate of the United Kingdom and Spokesman of Group B unacceptable, and preferred to have questions relating to Article 1 resolved before Article 2 was embarked upon. He proposed that Group B make definite overall proposals and that the countries of Group B that did not agree on those proposals make their comments only afterwards.

91.1 Mrs. NICODEME (France) pointed out that Article 1 mentioned only the authorization of the IOC for any use of the Olympic symbol. Yet there was a mention in Article 3 of an agreement between the IOC and the National Olympic Committee (NOC) governing the conditions under which authorization was given. In the opinion of her Delegation it would be preferable, in the interest of a better structure for the Treaty, for Article 1 to be given a second paragraph of the same content as Article 3 of the draft Treaty.

91.2 The French Delegation proposed to submit a draft paragraph consistent with its proposal, which could then be discussed either in Plenary or in the Contact Group.

92. Mr. BOGSCH (Director General of the World Intellectual Property Organization) pointed out that it would be difficult to reach any agreement on Article 1 since it was closely linked to Articles 2 and 3. He therefore suggested that observations be immediately made on Articles 2 and 3.

93.1 Mr. SIDIK (Indonesia) extended his Delegation's thanks to the Government of Kenya for hosting the Conference and congratulated the officers on their election.

93.2 The speaker's Delegation fully supported the prohibition of unauthorized registration and use of the Olympic symbol as a mark and the principle of sharing the proceeds of licensing for the promotion of sport in developing countries.

93.3 His Delegation was of the opinion that the proposal made by the Spokesman of Group B to add the word "invalidate" in Article 1 would not obviate the necessity of maintaining Article 2 (Exceptions to the Obligation); any State which had authorized the use of the Olympic symbol as a mark prior to its becoming party to the Treaty should be enabled to continue to do so.

93.4 His Delegation had no objection to the proposal made by the Delegation of Czechoslovakia.

94. Mr. DAVIS (United Kingdom), speaking in the name of Group B, agreed with the suggestion made by the Director General of WIPO.

95. Mr. LASSE (Trinidad and Tobago) said his Delegation agreed also with the suggestion made by the Director General of WIPO. However, it was of the opinion that the Conference should know in a more straightforward manner the position of Group B in relation to Article 1. He proposed that Group B should make concrete suggestions on Article 1, as promised in the previous meeting.

96. Mr. DAVIS (United Kingdom) agreed to put down in writing the two points he had made in the previous meetings in the name of Group B. Since he had had no time to consult his Group on the exact wording of the proposal, he would submit it as a proposal of the Delegation of the United Kingdom.

97.1 Mr. COWARD (Acting Chairman) asked whether the Delegation of Czechoslovakia also agreed to put its proposal in writing.

97.2 He further asked whether other delegations wished to make observations on Article 1.

98. Mr. VANDERPUYE (Ghana) asked whether it would be possible for the Delegate of the United Kingdom to dictate his proposal immediately so that the Group of Developing Countries be given the opportunity to study it during lunchtime.

99.1 Mr. GUEBLAOU (Tunisia) asked whether the proposal of which the Delegation of the United Kingdom had just spoken came from the Delegation itself or whether it was made in the name of Group B.

99.2 The speaker considered that the discussions were stagnating, and requested that Group B formulate its proposals immediately instead of postponing them to the afternoon meeting.

100. Mr. COWARD (Acting President) suggested that, for the convenience of the participants, the Delegation of the United Kingdom should preferably make a written formal proposal.

101. Mr. PEREIRA BASTOS (Portugal) agreed to the proposal made by the Acting President.

102. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, pointed out that if the written proposal were to be available in the afternoon only, he would prefer the Delegation of the United Kingdom to consult Group B so that the proposal would be that of the Group.

103. Mr. BORGGARD (Sweden) agreed with the Director General of WIPO that it would be difficult to take any decision on Article 1 without knowing the problems raised by the other Articles. He proposed that the draft Treaty be examined article by article, that the problems be listed, that they be referred to the Contact Group and finally discussed in the Plenary.

104. The Conference decided to adjourn its meeting until the afternoon of the same day.

Fourth Meeting Friday, September 25, 1981 Afternoon

Article 1 (Obligation of States)(continued); Article 2 (Exceptions to the Obligation)

105. Mr. COWARD (Acting Chairman) opened the meeting and informed the Conference that document OS/DC/5 was available.

106. Mr. DAVIS (United Kingdom) explained that document OS/DC/5, entitled "Proposals by the Delegation of the United Kingdom," contained two proposals for amendment, the first one to Article 1, supported by the whole of Group B except the United States of America, and the second one to Article 2, which was supported by the whole of Group B without exception.

107.1 Mr. KIRK (United States of America) stated that his Delegation was in general agreement with the proposed amendments to Article 1. Its concern was that Article 1 as amended should clearly permit a State to simply set up machinery to allow any interested party to seek the refusal or invalidation of the registration or prevention of the use instead of placing on the State the obligation to refuse or to invalidate the registration or prevent the use.

107.2 The speaker further added that his Delegation had submitted to the Secretariat a proposal for amendment to Article 1, with alternatives.

108. Mr. COWARD (Acting Chairman) noted that not all the participants had had time to study document OS/DC/5 and, since there would be another proposal for amendment to Article 1, he proposed to proceed in the meantime with Article 2.

109. Mrs. STEUP (Federal Republic of Germany), with regard to the use of the Olympic symbol in connection with information on the Olympic movement or the activities of the Olympic movement and after having heard the intervention by the Representative of the IOC, said that her Delegation would hand a written proposal to the Secretariat to add to Article 2 a paragraph with the following content: "No State shall be obliged to prohibit the use of the Olympic symbol where that symbol is used in the mass media in connection with information on the Olympic movement or its activities."

110. Mr. BALLEYS (Switzerland) said that his Delegation supported the proposal made by the Delegation of the Federal Republic of Germany.

111. Mr. DEKKER (Netherlands) said his Delegation had great sympathy for the proposal made by the Delegation of the Federal Republic of Germany and was awaiting with great interest the written text thereof.

112.1 Mr. KIRK (United States of America) explained that the proposal for amendment made by his Delegation would comprise three alternatives, all of which would be acceptable to his Delegation. They were intended to protect the existing rights of the American Olympic Committee.

112.2 The United States of America had for a long number of years protected the Olympic symbol and its national emblem, by granting its NOC a civil action to prevent the registration and use of the Olympic symbol or of the emblem. In order to protect the existing rights of the NOC, the speaker's Delegation would propose either adding in Article 1, after the words "International Olympic Committee," the words "and with the concurrence of the National Olympic Committee" or replacing the word "International" by "National." The third alternative would be to add a new exception to the obligation in Article 2, which would read as follows: "The obligation provided for in Article 1 shall not bind any State party to this Treaty whose national law on September 25, 1981, protects the Olympic symbol."

112.3 Article 3 provided for the suspension of the obligation. That would lead to the possibility of any enterprise or person registering or using the symbol during that period of suspension. When the suspension had terminated, that enterprise or person should normally be entitled to maintain the registration or to continue the use of the symbol. Under Article 2(1)(i) and (ii) as appearing in the draft, that would not be possible. The Delegation of the United States of America was of the opinion that the rights acquired by that person during the period of suspension should also be protected and had submitted a proposal for amendment of paragraph (1) of Article 2.

113. Mr. DAVIS (United Kingdom) explained that the second proposal in document OS/DC/5, which was that of Group B, was mainly intended to introduce into paragraph (1)(ii) of Article 2 the same wording as in paragraph (1)(i) by repeating the words "consisting of or containing the Olympic symbol."

114. Mr. DEKKER (Netherlands) said his Delegation had great sympathy for the proposal made by the Delegation of the United States of America to protect rights acquired during the period of suspension also.

115. Mrs. STEUP (Federal Republic of Germany) expressed her Delegation's concern for the problem raised by the Delegation of the United States of America with regard to the effects of the termination of suspension.

Article 3 (Suspension of the Obligation)

116. Mrs. NICODEME (France) referred to the remark she had made earlier on Article 1. Her Delegation was going to submit a written proposal the effect of which would be to delete Article 3 of the draft Treaty and add a provision of the same content in Article 1.

117.1 Mrs. STEUP (Federal Republic of Germany) proposed that the words "in that State" be deleted in the sixth line of Article 3 of the draft Treaty. Such deletion could help to promote a licensing policy which enabled persons in any State to get a license for the whole area in which their products were sold, spared licensees the costs to give products for export a different get-up and avoided a disturbance of the free flow of goods legitimately marked with the symbol.

117.2 The Delegate of the Federal Republic of Germany understood that, as a practice, the revenue was shared between the IOC and the NOC and asked whether the words "the Government" should appear in the seventh line of Article 3.

118. Mr. STRASCHNOV (International Olympic Committee (IOC)) explained that Rule 24 C of the Olympic Charter expressly provided that "NOCs must be autonomous and must resist all pressures of any kind whatsoever, whether of a political, religious or economic nature." He agreed that it would be inconceivable that any revenue derived from licensing the emblem should go to the government and not to the NOC of the territory concerned. He therefore proposed the deletion of the words "the said Government or" in the sixth line of Article 3 of the draft Treaty.

119.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization) expressed his surprise that the draft Treaty, which had been in circulation for a long time, had not elicited earlier comments from the IOC.

119.2 He pointed out that the words "the Government or" in the third line should be deleted too.

119.3 He considered the question raised by the Delegate of the Federal Republic of Germany, as regards the words "in that State," an important matter of substance.

120.1 Mr. STRASCHNOV (International Olympic Committee (IOC)) explained the difference between the license contracts concluded by NOCs and those by OCOGs (Organizing Committees of the Olympic Games). The NOCs were free to license their emblem with small restrictions concerning alcohol and tobacco; they were in no way hindered by the IOC nor did the IOC take any share in the revenue from the licensing. On the other hand, the OCOGs, which might have their own emblems, could conclude worldwide licensing agreements, but required the approval of the IOC.

120.2 It might occur that the Olympic symbol, which was the exclusive property of the IOC, was expropriated by the government of a State, State A, and considered the property of the NOC of that State. That NOC might decide to oppose importation of articles manufactured under a license obtained from the NOC of another State, State B. Under Article 3 of the draft Treaty, State B would not be able to resort to suspension since that measure could be pronounced by a State only if there was no agreement on licensing and shares of revenue between the IOC and the government or the NOC of that State but not because it had prohibited the importation of articles bearing the five rings which it had expropriated.

120.3 The deletion of the words "of that State" in the sixth line of Article 3 of the draft Treaty, as proposed by the Delegation of the Federal Republic of Germany, would allow State B, through suspension of its obligation, to exercise some pressure to the NOC of State A. If such a deletion would help to put an end to the situation as it existed in a few countries, the IOC would certainly not oppose such a deletion.

121. Mr. BOGSCH (Director General of the World Intellectual Property Organization) expressed doubts as to whether suspension decided by one State could have extraterritorial effects, either direct or indirect.

122. Mrs. STEUP (Federal Republic of Germany) replied that her Delegation did not mean at any time to put pressure on any State or organization. Its main concern was that in particular in countries where a considerable part of the products were exported licenses restricted to the country of production of the goods did not adequately answer the needs of prospective licensees. Since under the draft Treaty suspension was already considered a measure to reach adequate licensing conditions as far as the country of the licensee was concerned, it should be broadened to include licensing conditions with respect to goods for export. This could influence the IOC to issue general rules of licensing, taking into account the needs of international trade.

123.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization) could not see how the Treaty could put pressure on the IOC to license in one way or the other if due account were given to the principle of contractual freedom.

123.2 He could not see either how the IOC could guarantee that protection existed in the countries to which the goods were exported.

124.1 Mr. GUEBLAOU (Tunisia) did not understand how a bilateral agreement--between a given State and the IOC--could operate in other States.

124.2 The speaker emphasized, for the benefit of the Delegation of the Federal Republic of Germany, that developing countries had sovereign power to regulate the import of products into their territory.

125.1 Mr. BALLEYS (Switzerland) pointed out that the Olympic emblem was very often made up of the Olympic rings and the flag of a State or an essential part of the emblem of that State. However, if the Olympic emblem were used for commercial purposes, its use, and therefore the use of the flag or emblem of the State, would be at variance with Article 6~~ter~~ of the Paris Convention for the Protection of Industrial Property.

125.2 The Delegate of Switzerland asked the Secretariat whether the problem had been considered, and the Representative of the IOC how many Olympic emblems were composed of the five Olympic rings and the national flag.

126. Mr. STRASCHNOV (International Olympic Committee (IOC)) cited the example of Australia where the emblem of the Australian NOC consisted, as all emblems did, of the five rings and the national flag, which made all licensing impossible. In order to solve that type of problem, the Executive Board of the IOC had allowed all the NOCs to have a second emblem, for licensing purposes, without the national flag in order to avoid any violation of national law or the Paris Convention.

Article 4 (Becoming Party to the Treaty)

127. Mr. KIRK (United States of America) noted that Article 4 of the draft Treaty limited membership in the Treaty to members of WIPO and the Paris Union. Since there were 150 members of the IOC, such a limitation would appear to deny access to one third of the members of the IOC.

128. Mr. UEMURA (Japan) proposed that, in Article 4(1)(i)--and also in the other relevant Articles--the word "ratification" be replaced by the words "ratification, acceptance or approval." He explained that the forms of acceptance or approval seemed to be generally used as a simplified procedure.

They had been introduced into some international conventions, such as the Convention establishing the Universal Postal Union and the International Convention for the Protection of New Varieties of Plants (UPOV Convention). The introduction of those forms of becoming party to a treaty would attract a wider range of countries.

129.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization), in reply to the question put by the Delegation of the United States of America, referred to paragraph 22 of the commentary that reads "This condition [for access to the Treaty] is based on the fact that the obligations established by the Treaty concern certain aspects of industrial property, which are thus matters relevant to WIPO and the Paris Union." He agreed that the Treaty could be open to all countries as long as WIPO, which had labored on that text for several years, were the depositary authority.

129.2 As regards the proposal made by the Delegation of Japan, the Director General of WIPO agreed that, if addition of the words "acceptance or approval" might help some countries, he would recommend it.

130. Mr. PFANNER (Secretary General of the Conference) enumerated the various proposals for amendment: document OS/DC/5, proposals by the Delegation of the United Kingdom, which constituted proposals agreed upon by Group B with the exception of the United States of America as far as the second proposal was concerned; document OS/DC/6, proposals by the Delegation of the United States of America; document OS/DC/7, proposal by the Delegations of France, Germany (Federal Republic of), Greece, Ireland, Italy, the Netherlands and the United Kingdom; document OS/DC/8, proposal by the Delegation of the Federal Republic of Germany; document OS/DC/9, proposal by the Delegation of France; document OS/DC/10, proposal by the Delegation of Japan; document OS/DC/11, proposal by the countries of Group D.

131. Mr. ZARATE TRISTAIN (Mexico) considered that there was little foundation for the condition that only countries members of WIPO and the Paris Union could become party to the Treaty. The possibility should also be available to any member country of the IOC. The Mexican Delegation proposed that amendments be also made accordingly to Articles 8 and 9. It would submit a written proposal to that effect, in agreement with the Spokesman of the Group of Developing Countries.

Article 5 (Entry Into Force of the Treaty)

132. Mr. KIRK (United States of America) wondered whether it would be wise to permit the entry into force of the Treaty with such a low figure as that of three countries. It would lead to a situation where only three countries, perhaps developing ones, would find themselves compelled to turn over to the IOC a good share of the revenue derived from the licensing.

133.1 Mrs. NICODEME (France) endorsed the statement made by the Delegation of the United States of America, and proposed that the entry into force of the Treaty be made subject to the deposit of six instruments of ratification or accession and not three.

133.2 The Delegation of France also endorsed the statements made by the Delegations of Mexico and the United States of America to the effect that accession to the Treaty should be open to States other than Member States of WIPO and the Paris Union. That broadening of access in no way meant that all reference to WIPO was to be removed from the Treaty.

134. Mr. BOGSCH (Director General of the World Intellectual Property Organization), in reply to the interpretation given by the Delegate of the United States of America as to the consequences of a small number of ratifications or accessions, said--as mentioned in paragraph 24 of the Notes on the draft Treaty--that the sooner there was a possibility for developing countries to derive a material benefit from the Treaty, the better it would be. That would explain the small figure of three.

135. Mr. KIRK (United States of America) explained that his Delegation was actually more concerned with the question of financial obligations created under the Treaty. He asked whether the Treaty would be self-supporting and how it would be administered by WIPO.

136. Mr. BOGSCH (Director General of the World Intellectual Property Organization) replied that the financial burden on the International Bureau would be minimal, the only task it would have to perform would be the preparation of notifications in connection with ratifications and accessions and the cost of that task would be covered by the general budget of WIPO. If, in the future, member States wished to meet, such proposal would be entered in the proposed budget of WIPO and discussed in the General Assembly of WIPO. The draft Treaty as proposed did not provide for any bodies or meetings.

137. The Conference decided to adjourn the meeting until the evening of the same day.

Fifth Meeting
Friday, September 25, 1981
Evening

138. Mr. COWARD (Acting Chairman) opened the meeting.

139. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, said his Group had not had time to go through all the proposals and asked for adjournment.

140. The Conference decided to adjourn the meeting for forty-five minutes.

Article 1 (Obligation of States); Article 2 (Exceptions to the obligation); Article 3 (Suspension of Obligation); Article 4 (Becoming Party to the Treaty); Article 5 (Entry into Force of the Treaty); Article 8 (Deposit of the Treaty; Transmittal of Copies; Registration of the Treaty)

141. Mr. COWARD (Acting Chairman) resumed the meeting and asked the Spokesman of the Group of Developing Countries to make observations on the proposals for amendment.

142.1 Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, said document OS/DC/5 (Proposals by the Delegation of the United Kingdom) was acceptable to his Group.

142.2 The second alternative, contained in document OS/DC/6 (Proposals by the Delegation of the United States of America), would be to insert after the word "Committee" in Article 1 the words "and with concurrence of the National Olympic Committee." That meant the IOC would have to consult no less than 150 NOCs. The Group of Developing Countries rejected that alternative.

142.3 The third alternative proposed in document OS/DC/6 was to add to Article 2 a new paragraph (4) which would read as follows: "The obligation provided for in Article 1 shall not bind any State party to this Treaty whose national law on September 25, 1981, protects the Olympic symbol." The date proposed was totally arbitrary. The Group of Developing Countries rejected that third alternative.

142.4 Document OS/DC/6 contained a second proposal, namely to add to paragraph (1)(i) and (ii) of Article 2 after the word "State" the words "or during any period during which the obligation provided for in Article 1 is considered as suspended under Article 3." Since the experience of the IOC showed that there was no such suspension of relations with the NOCs, the Group of Developing Countries considered that situation as purely theoretical and reserved its position on such a proposal.

142.5 Document OS/DC/7 originated from the Delegations of France, Germany (Federal Republic of), Greece, Ireland, Italy, the Netherlands and the United Kingdom and proposed the addition of a new article couched in the following terms: "The foregoing provisions shall, as regards States party to this Treaty which are members of a customs union or free trade area, be without prejudice to their commitments under the instruments establishing such a customs union or free trade area, in particular as regards the provisions governing the free movement of goods or services between those States." The Group of Developing Countries proposed that the words "customs union or free trade area," be replaced by "customs union, free trade area as well as regional or subregional groupings," in order to cover all levels of groupings.

142.6 As regards document OS/DC/8 (Proposal by the Delegation of the Federal Republic of Germany), the new paragraph proposed therein was acceptable to the Group of Developing Countries.

142.7 In document OS/DC/9 (Proposal by the Delegation of France), it was proposed that Article 3 be deleted and a second paragraph added to Article 1, with the following wording: "Any State may provide that the conditions under which the International Olympic Committee grants an authorization applying on its territory shall be the subject of an agreement between the International Olympic Committee and the National Olympic Committee of that State, which will in particular determine the part of the said National Olympic Committee in any revenue obtained for granting the authorization." That proposal for amendment was found unacceptable by the Group of Developing Countries, because it would create a very complex relationship between the IOC and the numerous NOCs.

142.8 The proposal made by the Delegation of Japan (document OS/DC/10) to add, in Articles 4(1)(i), 5(1) and (2) and 9(ii), after the words "of ratification" the words ", acceptance or approval," was acceptable to the Group of Developing Countries.

142.9 As regards document OS/DC/11 (Proposal by the Countries of Group D), the Group of Developing Countries found it acceptable provided a small amendment be introduced in that proposal, namely to add the words "of the Olympic symbol" after the word "definition."

142.10 The proposal made by the Delegation of Mexico (document OS/DC/12) to add, in Articles 4, 8 and 9, after the words "Paris Union" the words "or of the United Nations or any of its Specialized Agencies" had the total support of the Group of Developing Countries.

143.1 Mr. DAVIS (United Kingdom), speaking in the name of Group B, said that, as far as the proposals made by his Delegation were concerned (document OS/DC/5), they were supported by Group B, with the exception of the Delegation of the United States of America as regards the second proposal.

143.2 Group B was able to accept the second alternative in the first proposal contained in document OS/DC/6 (Proposals by the Delegation of the United States of America).

143.3 The amendment proposed by the Spokesman of the Group of Developing Countries to the proposal made by seven Group B countries in document OS/DC/7 would be favorably considered.

143.4 Document OS/DC/8 (Proposal by the Delegation of the Federal Republic of Germany) was acceptable to the Group B Countries.

143.5 Since the Group of Developing Countries was not able to accept the proposal made by the Delegation of France (document OS/DC/9), Group B would not press for it.

143.6 As regards document OS/DC/10 (Proposal by the Delegation of Japan), Group B (Austria excepted) was able to accept the proposal contained therein.

143.7 As regards document OS/DC/11 (Proposal by the Countries of Group D), Group B had no objection to Mr. Vanderpuye's proposal for an addition. It would, moreover, propose that another sentence be added: "The definition and the graphic representation of the Olympic symbol are annexed to the Treaty." The Treaty would therefore be followed by an annex.

143.8 The Group B Countries proposed an amendment to the proposal made by the Delegation of Mexico (document OS/DC/12), namely that a new paragraph be added in Article 4, which would read as follows: "Any State member of the United Nations Organization or one of its Specialized Agencies, other than that specified in paragraph (1), may become party to this Treaty by deposit of an instrument of accession."

144.1 Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, said that Group D was able to accept the proposals contained in document OS/DC/5 (Proposals by the Delegation of the United Kingdom).

144.2 In document OS/DC/6 (Proposals by the Delegation of the United States of America), the first two alternatives were unacceptable to Group D since they would make the Treaty useless as an international instrument designed to emphasize the role played by the IOC. In the event the proposals made by the Delegation of the United States of America were adopted the role of the IOC would be limited to registration of decisions by NOCs.

144.3 The third alternative proposed in document OS/DC/6 meant that countries, though formally bound by the provisions of Article 1 of the draft Treaty, would in fact be exempted from the obligation stipulated by this Article. This alternative was also unacceptable to Group D.

144.4 The second proposal contained in document OS/DC/6 was acceptable by the Group D countries.

144.5 As regards the proposal contained in document OS/DC/7 (Proposal by the Delegations of seven Group B countries), it would only be acceptable to Group D if it were amended in the way the Spokesman of the Group of Developing Countries had proposed. Moreover, Group D suggested the following wording: "any other regional grouping or any other economic union or grouping."

144.6 The proposal made by the Delegation of the Federal Republic of Germany (document OS/DC/8) could be accepted only if there was clear understanding that the proposed addition would not permit any "harmful" use of the Olympic symbol. By "harmful" use, the Spokesman of Group D meant the use of the Olympic symbol for the purposes of commercial advertising in the guise of providing information on the Olympic movement.

144.7 Group D considered the proposal contained in document OS/DC/9 (Proposal by the Delegation of France) unacceptable.

144.8 The proposal made by the Delegation of Japan in document OS/DC/10 was quite acceptable to Group D.

144.9 The Spokesman of Group D expressed his Group's thanks for the support given by Group B and the Group of Developing Countries to document OS/DC/11 as well as for the modifications proposed by their Spokesmen.

144.10 As regards the proposal made by the Delegation of Mexico in document OS/DC/12, the Spokesman of Group D said that his Group undoubtedly favored wider participation in the Treaty, but he would prefer to have Article 4 amended as proposed by the Spokesman of Group B.

145. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, said that his Group after having heard the comments of the other Groups, was able to accept the second proposal made in document OS/DC/6 by the Delegation of the United States of America in connection with Article 2(1)(i) and (ii).

Article 1 (Obligation of States) (continued)

146.1 Mr. STRASCHNOV (International Olympic Committee (IOC)) said that the second alternative of the first proposal made by the Delegation of the United States of America in document OS/DC/6 was unacceptable to the IOC as it would

completely paralyze any negotiation and would render the IOC's activities totally useless.

146.2 As regards the definition of the Olympic symbol, it appeared in the Olympic Charter and mentioned only the colors of the rings. The Representative of the IOC supposed that the Treaty would provide for the protection of the symbol in black and white also.

147.1 Mr. KIRK (United States of America) proposed that paragraph (1) of Article 1 in document OS/DC/5 be amended by the insertion of the words "either ex officio or at the request of an interested party," thereby indicating that the State itself would not be obligated to initiate the proceedings for refusal or invalidation of a registration.

147.2 However, the Delegation of the United States of America was able to accept such an understanding simply being expressly reflected in the records of the Conference.

148. Mr. VANDERPUYE (Ghana) said that last proposal made by the Delegation of the United States of America could not be accepted by the Group of Developing Countries for it had been made orally. It was understood that by virtue of the Treaty a State undertook obligations and it was a matter of internal organization which measures it had to take in order to carry out its international obligations.

149. Mr. DAVIS (United Kingdom), speaking in the name of Group B, said that the proposal made by the Delegation of the United States of America to have the understanding reflected in the records of the Conference was acceptable.

150. Mr. KIRK (United States of America) further pointed out that even if the suggestion were included in the records, his Delegation would not approve Article 1 of the draft Treaty should none of the alternatives proposed in document OS/DC/6 be accepted.

151. Mr. BOGSCH (Director General of the World Intellectual Property Organization) suggested that the formula contained in document OS/DC/11 (Proposal by the countries of Group D) "in conformity with the definition contained in the Charter of the International Olympic Committee" be replaced by a simplified formula such as "as defined in the Charter of the International Olympic Committee."

152. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, agreed to the formula suggested by the Director General of WIPO.

153.1 Mr. DAVIS (United Kingdom), speaking in the name of Group B, also agreed to that formula.

153.2 He reminded the Conference that there was substantial support in Group B for the second alternative contained in the proposal by the Delegation of the United States of America, namely the insertion of the words "and with the concurrence of the National Olympic Committee" after the word "Committee."

154. Mr. KIRK (United States of America) repeated his Delegation's position that should none of the three alternatives proposed by his Delegation be accepted, it would have to oppose Article 1. In the event of the second alternative, which had substantial support from Group B, being accepted, his Delegation would have no objection to Article 1.

155. Mr. COWARD (Acting President) asked the Delegation of the United States of America whether it would accept its objection being put on record.

156. Mr. KIRK (United States of America) rejected the idea of having his Delegation's concern simply put on record.

157. Mr. DAVIS (United Kingdom) therefore proposed a vote.

158. The proposal for amendment of Article 1 as appearing in document OS/DC/6 (Proposals by the Delegation of the United States of America) was rejected by 22 votes to 4, with 10 abstentions.

Article 2 (Exceptions to the Obligation) (continued)

159.1 Mr. COWARD (Acting President) reminded the Conference that the proposal contained in document OS/DC/5 (Proposals by the Delegation of the United Kingdom) was acceptable to all three Groups.

159.2 The proposal made by the Delegation of the United States of America in document OS/DC/6 was acceptable to all three Groups.

159.3 The proposal made by the Delegation of the Federal Republic of Germany in document OS/DC/8 was acceptable to all Groups except Group D.

160. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, stressed that anything, including advertising, could be used "in connection with" information. He therefore proposed that the expression "in connection with" be replaced by the expression "for the purposes of" which would reflect better that the use should exclude any commercial intents.

161. Mr. BOGSCH (Director General of the World Intellectual Property Organization) asked whether the text in document OS/DC/8 would be left as proposed with the addition of the words "and not for commercial purposes."

162. Mrs. STEUP (Federal Republic of Germany) rejected the suggestion made by the Director General of WIPO; even if information was the main purpose, newspapers were published also for commercial purposes. The speaker proposed a clear understanding in the records of the Conference that advertising containing information or advertising in the guise of information was not covered by the exception.

163. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, said his Group preferred the expression "for the purposes of."

164. Mrs. STEUP (Federal Republic of Germany) said her Delegation was able to accept that expression.

165. Mr. DAVIS (United Kingdom), speaking in the name of Group B, said that expression was also acceptable to his Group.

166. Article 2 of the draft Treaty was adopted with the amendments proposed by the Delegations of the United Kingdom, the United States of America and Germany (Federal Republic of).

Article 3 (Suspension of the Obligation) (continued)

167. Mrs. NICODEME (France) said that, for want of support, her Delegation was compelled to withdraw the amendment proposal contained in document OS/DC/9. The withdrawal in question was made reluctantly, as the French Delegation feared that, without the proposed amendment, the prospect of France ratifying the Treaty was diminished.

168. Mr. BOGSCH (Director General of the World Intellectual Property Organization) pointed out that the words "the Government or," in the third and fourth lines and "Government or" in the seventh line in Article 3 of the draft Treaty should be deleted.

169. Article 3 of the draft Treaty was adopted with the amendments mentioned in the preceding paragraph.

Article 4 (Becoming Party to the Treaty) (continued)

170.1 Mr. COWARD (Acting President) reminded the Conference that the proposal for amendment made by the Delegation of Japan (document OS/DC/9) had been accepted by all three Groups.

170.2 The Delegation of Mexico had made in document OS/DC/11 a proposal for amendment which had been further amended by the Spokesman of Group B, Mr. Davis.

171. Article 4 of the draft Treaty was adopted with the amendments mentioned in the preceding paragraph.

Article 5 (Entry Into Force of the Treaty) (continued)

172. Mr. COWARD (Acting President) noted that Article 5 of the draft Treaty would have to be amended as a consequence of document OS/DC/10 (Proposal by the Delegation of Japan) having been accepted. The words "acceptance" and "approval" were to be added in paragraphs (1) and (2) of Article 5.

173. Article 5 of the draft Treaty was adopted with the modifications mentioned in the preceding paragraph.

Article 6 (Denunciation of the Treaty)(continued)

174. Mr. COWARD (Acting President) noted that there was no opposition to Article 6 of the draft Treaty.

175. Article 6 of the draft Treaty was adopted as appearing in the draft, without discussion.

Article 7 (Signature and Languages of the Treaty)(continued)

176. Mr. COWARD (Acting President) noted that there was no opposition to Article 7 of the draft Treaty.

177. Article 7 was adopted as appearing in the draft Treaty without discussion.

Article 8 (Deposit of the Treaty; Transmittal of Copies; Registration of the Treaty)(continued)

178. Mr. COWARD (Acting President) reminded the Conference that paragraph (2) of Article 8 had to be amended as a consequence of Article 4 having been amended so as to allow States that were not members of WIPO or the Paris Union to become parties to the Treaty.

179. Article 8 was adopted as appearing in the draft Treaty with the amendment mentioned in the preceding paragraph.

Article 9 (Notifications)

180. Mr. COWARD (Acting President) pointed out that two amendments had to be made as a consequence of documents OS/DC/10 (Proposal by the Delegation of Japan) and 12 (Proposal by the Delegation of Mexico) having been accepted.

181. Article 9 of the draft Treaty was adopted with the two amendments mentioned in the preceding paragraph.

New Article to be Inserted

182. Mr. COWARD (Acting President) reminded the Conference that the debates had to be continued on document OS/DC/7 (Proposal by the Delegations of France, Germany (Federal Republic of), Greece, Ireland, Italy, the Netherlands and the United Kingdom) as further amended by the Group of Developing Countries.

183. Mr. BOGSCH (Director General of the World Intellectual Property Organization) referred to the amendment made by the Group of Developing Countries to document OS/DC/7 and suggested that the words "as well as" be deleted.

184. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, agreed with the suggestion made by the Director General of WIPO.

185. Mr. TARNOVSKY (United Kingdom), speaking in the name of the seven Delegations submitting document OS/DC/7, asked for a short break so as to allow those Delegations to further consider the amendments proposed by the Group of Developing Countries and Group D.

186. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, explained that the proposal he had made was intended to supplement the amendment proposed by the Group of Developing Countries with the words "any other economic grouping."

187. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, pointed out that his Group did not intend to be overrestrictive by limiting its proposal to economic groupings.

188. Mr. BOGSCH (Director General of the World Intellectual Property Organization) suggested including the words "economic groupings" together with "regional and subregional groupings" so as to reflect the concern of both Group D and the Group of Developing Countries.

189. The meeting was suspended for ten minutes.

190. Mr. TARNOVSKY (United Kingdom), speaking in the name of the seven Delegations submitting document OS/DC/7, stated that those Delegations accepted the amendments as proposed by the Group of Developing Countries and Group D and summarized by the Director General of WIPO.

191. The Conference decided to adjourn the meeting until the following day in the morning.

Sixth Meeting
Saturday, October 26, 1981
Morning

Adoption of the Treaty

192. Mr. COWARD (Acting President) opened the meeting and asked the Secretary General of the Conference to read out the list of States entitled to adopt the draft Treaty as revised in document OS/DC/14.

193.1 Mr. PFANNER (Secretary General of the Conference) read out the list of States members of the Paris Union, having full powers to vote: Algeria, Argentina, Australia, Austria, Canada, Congo, Czechoslovakia, Egypt, Finland, France, Germany (Federal Republic of), Ghana, Greece, Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Liechtenstein, Malawi, Mexico, Morocco, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Republic of Korea, Senegal, Soviet Union, Spain, Sweden, Switzerland, Tanzania, Trinidad and Tobago, Tunisia, Turkey, United Kingdom, United States of America, Zaire and Zambia.

193.2 The two member countries of the Paris Union, having no powers to vote, were Nigeria and Uganda.

193.3 The following six countries were not members of the Paris Union and had no right to vote, namely Bangladesh, Chile, China, Colombia, Costa Rica, Pakistan, Rwanda, Sudan and Swaziland.

194. Mr. GYRDYMOV (Soviet Union) asked for a recess of 30 minutes in order to make some purely editorial amendments to the Russian text of the revised draft.

195. The meeting was suspended for half an hour.

196. Mr. COWARD (Acting President) proposed to go through the revised draft as contained in document OS/DC/14 article by article.

Article 1 (Obligation of States) (continued)

197. Mr. GYRDYMOV (Soviet Union) said that the words "or containing the Olympic symbol" should be placed in the same order in the Russian text as they were in the English text.

Article 2 (Exceptions to the Obligation) (continued)

198. Mr. GYRDYMOV (Soviet Union) said that the beginning of paragraph 1(ii) of the Russian text of that Article should be aligned with the English text and the word "party" should be added in the Russian text after the words "no State."

Article 3 (Suspension of the Obligation) (continued)

199. Mr. CASADO CERVINO (Spain) wished to make some drafting corrections that affected only the Spanish text. The words "Comité Internacional Olímpico" appearing in the fourth and fifth lines of document OS/DC/14 should be corrected to "Comité Olímpico Internacional." The words "Comité Nacional Olímpico" appearing in the third, sixth and seventh lines were to be corrected to "Comité Olímpico Nacional."

New Article 4 (Exceptions to Chapter I)(continued)

200. Mr. GYRDYMOV (Soviet Union) asked that the word "groupings" be replaced by "unions."

201. Mr. BUTLER (Canada) questioned whether, after the words "a free trade area," the word "another" should not be replaced by "any other."

202. Mr. BOGSCH (Director General of the World Intellectual Property Organization) agreed that the words "any other" should be used instead.

203. Mrs. NICODEME (France) asked whether in that case the French text should not be amended.

204. Mr. GYRDYMOV (Soviet Union) added that, in the Russian text, the words which meant "in no way" should be deleted.

205. Mr. PFANNER (Secretary General of the Conference), replying to the question put by the Delegate of France, agreed that the words "de tout autre" should replace the words "d'un autre."

Article 5 (Becoming Party to the Treaty) (continued)

206. Mr. GYRDYMOV (Soviet Union) said that, in the Russian text, a comma should be inserted after the words "instrument of ratification" and that the words "acceptance or approval, or ..." should also be added.

207. Mr. DEKKER (Netherlands) said that, in paragraph (3) of the French text, the words "Mondiale de la Propriété Intellectuelle" should be added after "l'Organisation" in order to avoid any confusion with "l'Organisation des Nations Unies." If that remark was accepted, the same corrections should be made in the other texts.

208. Mr. PFANNER (Secretary General of the Conference) explained that paragraph (1) gave a definition of the word "Organisation" which, as a practice of WIPO, was used only to designate the World Intellectual Property Organization. The UN had always been referred to as the "Organisation des Nations Unies."

Article 6 (Entry Into Force of the Treaty) (continued)

209. Mr. COWARD (Acting President) noted that no observation had been made on Article 6 of the revised draft.

Article 7 (Denunciation of the Treaty) (continued)

210. Mr. COWARD (Acting President) noted that no observation had been made on Article 7 of the revised draft.

Article 8 (Signature and Languages of the Treaty) (continued)

211.1 Mr. COWARD (Acting President) explained that a proposal had been made to amend paragraph (3) of Article 8 so as to give a longer time limit for signature of the Treaty by adding the words", and thereafter in Geneva until June 30, 1983."

211.2 He noted that there was no opposition to that proposal for amendment.

Article 9 (Deposit of the Treaty; Transmittal of Copies; Registration of the Treaty) (continued)

212. Mr. BOGSCH (Director General of the World Intellectual Property Organization) noted that, in paragraph (1), the word "in" should be replaced by the word "at."

213. Mr. COWARD (Acting President) said that the words "at Nairobi" had to be added as a consequence of the amendment in Article 8(3).

Article 10 (Notifications)(continued)

214. Mr. GYRDYMOV (Soviet Union) pointed out that, in the Russian text, reference should be made to Article 5(1) instead of Article 5(2).

215. Mrs. KALSHOVEN VAN TIJEN (Netherlands) asked whether notifications by the Director General of WIPO of the entry into force of the Treaty in respect of States referred to in Article 6(2) were covered by item (ii) of Article 10.

216. Mr. BOGSCH (Director General of the World Intellectual Property Organization) replied in the affirmative.

217. Mrs. NICODEME (France), speaking to the Secretariat, asked whether the final text would contain titles in the same way as the drafts. The French Delegation was opposed to the insertion of headings to the incorporation of titles in the provisions of an international agreement.

218. Mr. BOGSCH (Director General of the World Intellectual Property Organization) pointed out that it was the practice of WIPO to have titles to articles and he cited examples such as the Convention Establishing WIPO, the Patent Cooperation Treaty and the Trademark Registration Treaty.

219. Mrs. NICODEME (France) said that the French Delegation had taken due note of the statement by the Director General of WIPO. However, acceptance of the practice in question by the French Delegation did not constitute acceptance of anything at all with respect to the Paris Convention.

220. Mr. QUINN (Ireland) wondered whether the concern expressed by the Delegation of France could be met by putting the titles between square brackets.

221.1 Mr. BOGSCH (Director General of the World Intellectual Property Organization) reminded the Conference that discussions had been held on the draft Treaty which contained titles and he would think therefore that they had been adopted. The intervention made by the Delegate of Ireland could be interpreted as a new proposal.

221.2 The Director General of WIPO pointed out that the practice of having titles in articles had been established practice since the Stockholm Conferences and had been greeted by the great majority of countries with satisfaction because it facilitated finding the provisions which were of interest to them.

221.3 The Director General of WIPO added that a title was not a statement and had not the legal force of the provision itself.

Annex to the Treaty

222. Mr. STRASCHNOV (International Olympic Committee (IOC)) explained that the definition would be simply copied from the Charter and what appeared in the Annex reflected faithfully Rule 6 of the Olympic Charter.

223. Mr. BOGSCH (Director General of the World Intellectual Property Organization) explained "pour la petite histoire" that the rings which appeared in the Annex to the Treaty had been drawn with a Kenyan coin.

Adoption of the Treaty

224. Mr. KIRK (United States of America) asked for the adoption of the text as it appeared in document OS/DC/14 and proposed that the Conference proceed by a roll-call vote.

225. Mr. VANDERPUYE (Ghana) proposed that the Conference attempt first to reach a consensus before having recourse to a roll-call vote.

226. Mr. BOGSCH (Director General of the World Intellectual Property Organization) explained that a two-thirds majority was necessary for the adoption of the Treaty.

227. Mr. KIRK (United States of America) referred to Rule 37(2) of the Rules of Procedure of the Diplomatic Conference for the Revision of the Paris Convention, which applied to the Conference and which provided that "voting on any question shall be by show of hands unless a Delegation having the right to vote, supported by at least one other Delegation having the right to vote, request a roll-call, in which case it shall be by roll-call."

228. Mr. COWARD (Acting President) first asked whether the matter should be agreed upon by consensus.

229. Mr. KIRK (United States of America) regretted that his Delegation had not been able to find any accommodation which would have permitted acceptance by his country. It had therefore to block consensus and maintain its request for a roll-call vote.

230. Mr. BUTLER (Canada) said his Delegation would like to know the extent to which the text of the Treaty would be acceptable to the delegations and therefore seconded the request made by the Delegation of the United States of America to have a roll-call vote.

231. Mr. PFANNER (Secretary General of the Conference) enumerated the countries which had voted in favor*: Tunisia, Turkey, Soviet Union, Zaire, Zambia, Algeria, Germany (Federal Republic of), Argentina, Australia, Austria, Canada, Congo, Spain, Finland, France, Ghana, Greece, Hungary, Indonesia, Ireland, Japan, Kenya, Liechtenstein, Mexico, Netherlands, Philippines, Poland, Portugal, Senegal, United Kingdom, Sweden, Switzerland, Tanzania, Czechoslovakia, Trinidad and Tobago (35). One country voted against: the United States of America; one country abstained: Norway.

* The roll is called in the French alphabetical order of the names of the States, beginning with the States whose name is drawn by lot by the Presiding Officer (Rule 37(2) of the Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention) (see page 41 above).

232. The Treaty was adopted by 35 votes to 1, with 1 abstention.

Final Declarations

233. Mrs. STEUP (Federal Republic of Germany) wished to make it clear that her Delegation, while being in favor of an adequate protection of the Olympic Symbol and therefore having voted for the Treaty, still had serious doubts whether the text adequately took care of all problems involved. Her country would have to study it in-depth. Her Delegation would not be able to sign the Treaty.

234. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, regretted that the roll-call vote was an empty victory, empty because it lacked the support of one great country, the United States of America. He expressed the hope that the delegations would do their best to persuade their governments not only to sign, but to ratify, accept, approve or accede to the Treaty.

235. Mr. KIRK (United States of America), in reply to Mr. Vanderpuye's intervention, stated that it was with regret that his Delegation had not adopted the text of the Treaty but his country would continue to support to the fullest extent possible the international Olympic movement and especially to the benefit of developing countries.

236. Mr. KING'ARUI (Kenya) expressed his Delegation's satisfaction that the Treaty had been adopted and all the more so since it had been on Kenyan soil.

237. Mr. GUEBLAOUI (Tunisia) said that he was very pleased to see the Treaty adopted. However, he regretted that the Delegation of the United States of America had been unable to vote in favor of the Treaty.

238. Mr. VANDERPUYE (Ghana), speaking in the name of the Group of Developing Countries, thanked the Acting President for the expert way in which he had conducted the discussions. He asked the President and the Acting President to accept his Group's thanks for their hospitality. He also thanked the Secretariat for the successful work and achievements.

239. Mr. DAVIS (United Kingdom), speaking in the name of Group B, expressed thanks to the Government of Kenya and his Group's appreciation of the valuable work done by the Acting President in conducting the work of the Conference. He also expressed his Group's appreciation of the constructive mind shown by Group D and the Group of Developing Countries. He shared Mr. Vanderpuye's regret that the Delegation of the United States of America was not able to adopt the Treaty. He finally thanked the Secretariat for its valuable work.

240. Mr. ZUBAREV (Soviet Union), speaking in the name of Group D, associated himself with the thanks and appreciation expressed by the other Spokesmen.

241.1 Mr. SENE (Senegal) congratulated Mr. Coward for having so successfully presided over the Conference.

241.2 He stated that his Delegation had voted in favor of the Treaty because it reflected the concerns of the vast majority of the countries represented at the Conference with respect to the protection of the Olympic symbol.

241.3 He also expressed regret that one of the greatest powers in the world should have been unable to cast a favorable vote.

242.1 Mr. STRASCHNOV (International Olympic Committee (IOC)) expressed the IOC's thanks to the Acting President, the delegates, the Director General of WIPO and the Secretariat for what could be considered an excellent treaty.

242.2 The Representative of the IOC expressed the hope that the Treaty would be widely ratified.

243. Mr. JOHNSON (African Intellectual Property Organization (OAPI)) joined the previous speakers in expressing, on behalf of the Director General of OAPI, his congratulations to Mr. Coward and to the Secretariat for the work accomplished.

244.1 Mr. COWARD (Acting President) made the following statement:

244.2 "I would like to extend the apologies of my Minister, who was honored to have been elected as Chairman but who, because of the presence of an overseas team has, unfortunately, had to sit in on important talks with that Delegation. I am sure that he would have wished to have participated, and particularly to have been present at this historical occasion when we have successfully piloted through a treaty for such a deserving cause as the

Olympic movement. I would like to pay tribute to all those who have participated in this Conference. I echo the observations of earlier delegates who have said that the spirit of warm cordiality and cooperation has marked our deliberations. To borrow a sporting phrase, I shall say you have all been good sports. And the fact that we have been able to conclude within, almost within, our time limit is evidence of that.

244.3 "I would like to extend my personal thanks and appreciation to the Director General and his devoted colleagues, who have provided so much back-up for this meeting, which, short as it was, has called for extreme efforts to conclude it within the time limitation. And, of course, the fact that we have had the revised text so early this morning to consider is a proof of the burning of even more mid-night oil than the distinguished delegates had themselves to burn last night.

244.4 "I too would like to extend my thanks to the interpreters who provided such excellent interpretation. Some of them may, I feel, be pleased that they are now finishing.

244.5 "I would like to thank the staff of the Kenyatta Conference Center who also have provided facilities for us.

244.6 "Ladies and Gentlemen, we now come to the end of this Diplomatic Conference. We have adopted the Treaty and it is a historic point in time. The Treaty itself will be available for signature at a special ceremony at the end of the Paris Revision meeting on the 24th October. I hope that all the distinguished Delegates will still be here then, so that you will be able to sign this document. And I think, distinguished Ladies and Gentlemen, that is all that has to be said. We do not have to say 'kwaheri' because you are all going to be here again next week, or virtually all of you, but nonetheless, thank you once again for your cooperation in making the adoption of this Treaty possible. The meeting is concluded."

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- K. PFANNER, Deputy Director General

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POST - CONFERENCE DOCUMENTS

DOCUMENT SERIES OS/PCD

OS/PCD/1

May 4, 1983 (Original: English/French)

INTERNATIONAL BUREAU OF WIPO

Draft Provisional Summary Minutes of the Meetings of the Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol

Editor's Note: This document contains, in a four-language version, the provisional draft of the summary minutes as drawn up by the International Bureau of WIPO and as submitted to the speakers for corrections. It is not reproduced here. The final summary minutes as distributed in their separate English version are reproduced from page 67 to page 117 of these Records.

OS/PCD/2

September 12, 1983 (Original: English/French)

INTERNATIONAL BUREAU OF WIPO

Revised Provisional Summary Minutes of the Meetings of the Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol

Editor's Note: This document contains, in a four-language version, the provisional summary minutes as revised by the International Bureau of WIPO according to the suggestions for changes made by the speakers in the draft submitted for examination (see document OS/PCD/1 hereabove). It is not reproduced here. The final summary minutes as distributed in their separate English version are reproduced from page 67 to page 117 of these Records.

OS/PCD/3

May 30, 1984 (Original: English/French)

INTERNATIONAL BUREAU OF WIPO

Final Summary Minutes of the Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol

Editor's Note: This document contains the English final text of the summary minutes. It is reproduced from page 67 to page 117 of these Records.

INDEXES

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NOTE CONCERNING THE USE
OF THE INDEXES

The first two indexes (pages 153 to 166) are indexes relating to the subject-matter of the Nairobi Treaty. The first of these two indexes (Index A) lists by number each provision of the Nairobi Treaty and indicates, under each one, the number which the provision had in the draft presented to the Conference, the pages where the text of the draft and the final text of the provision appear, the pages where the written proposals for amendments to the provision are reproduced, and, finally, the serial numbers of those paragraphs of the summary minutes which reflect the discussion on the provision and its adoption. The second index (Index B) is a catchword index, which lists alphabetically the main subjects dealt with in the Nairobi Treaty. After each catchword, the number of the provision in which the particular subject is dealt with is indicated. Anyone using these two indexes may refer either directly to a particular provision as found in the first index or may consult the second index with a catchword indication to determine the relevant provision citations to be used in consulting the first index.

The third index (pages 167 to 174) is an alphabetical list of States showing, under the name of each State, where to find the names of the members of its delegation as well as the written proposals for amendments submitted and the interventions made on behalf of that State and, finally, the signatories of the Nairobi Treaty.

The fourth index (page 175) is an alphabetical list of organizations showing, under the name of each organization, where to find the names of the observers representing it, as well as the interventions made on its behalf.

The fifth index (pages 176 to 194) is an alphabetical list of the participants indicating, under the name of each participant, the State or organization which he represented, as well as the place in these Records where his name appears together with that of his delegation, as an officer of the Conference, as a speaker in the meetings of the Conference or as a signatory of the Nairobi Treaty.

Throughout the indexes with the exception of the Catchword Index, which cites the provisions, the numbers which are not underlined refer to the pages of these Records and all the underlined numbers refer to the paragraphs of the summary minutes.

INDEXES TO THE NAIROBI TREATY

A. INDEX TO THE PROVISIONS OF THE NAIROBI TREATY*

Chapter I: Substantive Provisions

Corresponding Chapter in the Draft: Chapter I
Text of the Chapter in the Draft: 12
Final text of the Chapter: 13

Article 1: Obligation of States

Corresponding Article in the Draft: Article 1
Text of the Article in the Draft: 12
Written proposals for amendment:
-- United Kingdom (document OS/DC/5): 56
-- United States of America (document OS/DC/6): 56
-- France (document OS/DC/9): 58
-- Czechoslovakia (document OS/DC/11): 59
-- Hungary (document OS/DC/11): 59
-- Poland (document OS/DC/11): 59
-- Soviet Union (document OS/DC/11): 59
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 57-115, 141-158, 197
Adoption by the Conference: 224-232
Final text of the Article: 13

Article 2: Exceptions to the Obligation

Corresponding Article in the Draft: Article 2
Text of the Article in the Draft: 12
Written proposals for amendment:
- United Kingdom (document OS/DC/5): 56
- United States of America (document OS/DC/6): 56
- Germany (Federal Republic of) (document OS/DC/8): 58
- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 105-115, 141-158, 159-166, 198
Adoption by the Conference: 224-232
Final text of the Article: 13

*) Numbers denote pages except when they are underlined. Underlined numbers denote the paragraph number of the summary minutes appearing from page 67 to page 117 of these Records.

Article 3: Suspension of the Obligation

Corresponding Article in the Draft: Article 3
Text of the Article in the Draft: 14
Written proposals for amendment:
-- France (document OS/DC/9): 58
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 116-126, 141-158, 167-169, 199
Adoption by the Conference: 224-232
Final text of the Article: 15

Chapter II: Groupings of States

Corresponding Chapter in the Draft: [There is no such corresponding chapter in the Draft.]

Final text of the Chapter: 15

Article 4: Exceptions to Chapter I

Corresponding Article in the Draft: [There is no such corresponding provision in the Draft.]
Text of the Article in the Draft: 14
Written proposals for amendment:
-- France (document OS/DC/7): 57
-- Germany (Federal Republic of) (document OS/DC/7): 57
-- Greece (document OS/DC/7): 57
-- Ireland (document OS/DC/7): 57
-- Italy (document OS/DC/7): 57
-- Netherlands (document OS/DC/7): 57
-- United Kingdom (document OS/DC/7): 57
Discussion in the Conference: 182-191, 200-205
Adoption by the Conference: 224-232
Final text of the Article: 15

Chapter III: Final Clauses

Corresponding Chapter in the Draft: Chapter II
Text of the Chapter in the Draft: 14
Final text of the Chapter: 15

Article 5: Becoming Party to the Treaty

Corresponding Article in the Draft: Article 4
Text of the Article in the Draft: 14
Written proposals for amendment:
-- Japan (document OS/DC/10): 58
-- Mexico (document OS/DC/11): 59
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 127-131, 141-158, 170-171, 206-208
Adoption by the Conference: 224-232
Final text of the Article: 15

Article 6: Entry Into Force of the Treaty

Corresponding Article in the Draft: Article 5
Text of the Article in the Draft: 16
Written proposals for amendment:
-- Japan (document OS/DC/10): 58
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 132-137, 141-158, 172-173, 209
Adoption by the Conference: 224-232
Final text of the Article: 17

Article 7: Denunciation of the Treaty

Corresponding Article in the Draft: Article 6
Text of the Article in the Draft: 16
Discussion in the Conference: 174-175, 210
Adoption by the Conference: 224-232
Final text of the Article: 17

Article 8: Signature and Languages of the Treaty

Corresponding Article in the Draft: Article 7
Text of the Article in the Draft: 16
Written proposals for amendment:
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 176-177, 211
Adoption by the Conference: 224-232
Final text of the Article: 17

Article 9: Deposit of the Treaty; Transmittal of Copies; Registration of the Treaty

Corresponding Article in the Draft: Article 8
Text of the Article in the Draft: 16
Written proposals for amendment:
-- Mexico (document OS/DC/12): 59
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 141-158, 178-179, 212-213
Adoption by the Conference: 224-232
Final text of the Article: 17

Article 10: Notifications

Corresponding Article in the Draft: Article 9
Text of the Article in the Draft: 18
Written proposals for amendment:
-- Japan (document OS/DC/10): 58
-- Mexico (document OS/DC/12): 59
-- Secretariat of the Conference (document OS/DC/14): 60
Discussion in the Conference: 180-181, 214-216
Adoption by the Conference: 224-232
Final text of the Article: 19

Annex

Corresponding part in the Draft: [There is no such corresponding part in the draft.]
Discussion in the Conference: 222-223
Adoption by the Conference: 224-232
Final text of Annex: 19

B. CATCHWORK INDEX TO THE NAIROBI TREATY

List of Catchwords

ACCEPTANCE
ACCESSION
AGREEMENT
ANNEX
APPROVAL
ASSEMBLY
AUTHENTIC TEXT
AUTHORIZATION(S)

BECOMING PARTY TO THE TREATY

CERTIFIED COPY OF THE TREATY
CHARTER (OF THE INTERNATIONAL OLYMPIC COMMITTEE)
CUSTOMS UNION

DATE
DEFINITION OF THE OLYMPIC SYMBOL
DENUNCIATION
DEPOSIT
DIRECTOR GENERAL

ECONOMIC GROUPING
ENTRY INTO FORCE
EXCEPTIONS

FINAL CLAUSES
FREE TRADE AREA

GRAPHIC REPRESENTATION OF THE OLYMPIC SYMBOL
GROUPINGS OF STATES

INSTRUMENT
INTERNATIONAL OLYMPIC COMMITTEE
INTERNATIONAL (PARIS) UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY
(TO) INVALIDATE

MARK
MOVEMENT

NATIONAL OLYMPIC COMMITTEE(S)
NOTIFICATIONS(S)

OBLIGATION OF STATES
OFFICIAL TEXT(S)
OLYMPIC MOVEMENT
OLYMPIC RINGS
OLYMPIC SYMBOL
ORGANIZATION
ORIGINAL (TEXT) OF THE TREATY

PARIS UNION
PARTY TO THE TREATY
(TO) PROHIBIT
PURPOSES

RATIFICATION
(TO) REFUSE
REGISTRATION
REVENUE

SIGN
SIGNATURE
SPECIALIZED AGENCIES
STATE
SUBSTANTIVE PROVISIONS
SUSPENSION OF THE OBLIGATION (SUSPENDED)

TREATY

UNITED NATIONS
USE

WORLD INTELLECTUAL PROPERTY ORGANIZATION

Catchword Index*

ACCEPTANCE

Deposit of an instrument of a --: 5(1)(i), 5(3), 6(1), 6(2), 10(ii)
See also "becoming party to the Treaty," "instrument," "Treaty"

ACCESSION

Deposit of an instrument of --: 5(1)(i), 5(2), 5(3), 6(1), 6(2), 10(ii)
See also "becoming party to the Treaty," "instrument," "Treaty"

AGREEMENT

-- between the International Olympic Committee and the National Olympic Committee: 3
See also "authorization(s)," "International Olympic Committee," "National Olympic Committee"

ANNEX

-- (to the Treaty): 1, Annex
See also "definition of the Olympic symbol," "graphic representation of the Olympic symbol," "Olympic symbol"

APPROVAL

Deposit of an instrument of --: 5(1)(i), 5(3), 6(1), 6(2), 10(ii)
See also "becoming party to the Treaty," "instrument," "Treaty"

ASSEMBLY

--of the Paris Union: see "Paris Union"

AUTHENTIC TEXT

-- of the Treaty: 8(1)
See also "Treaty"

AUTHORIZATION(S)

-- of a person or an enterprise for the lawful commercial use of a mark or a sign consisting of or containing the Olympic symbol: 2(3)
-- of the International Olympic Committee for the use of the Olympic symbol: 1, 3
See also "International Olympic Committee," "National Olympic Committee," "use"

* Numbers refer to the provisions of the Nairobi Treaty.

BECOMING PARTY TO THE TREATY

--: 5

See also "acceptance," "accession," "approval," "deposit," "instrument,"
"ratification," "signature," "State"

CERTIFIED COPY OF THE TREATY

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²⁾ Editor's Note: The following States, who did not participate in the Diplomatic Conference and therefore are not listed in this index, also signed the Treaty in accordance with Articles 5(1), 8(3) and 9(1) of the Nairobi Treaty: BENIN, BRAZIL, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, INDIA, MADAGASCAR, PERU, QATAR, TOGO, URUGUAY. (For the full list of signatories, see page 21 of these Records.)

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