

**INTERNATIONAL  
PATENT CLASSIFICATION**

**RECORDS  
OF THE STRASBOURG CONFERENCE**

**1971**



**STRASBOURG**



**GENEVA**

**RECORDS  
OF THE  
STRASBOURG  
DIPLOMATIC CONFERENCE**

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COUNCIL OF EUROPE

WORLD INTELLECTUAL  
PROPERTY ORGANIZATION  
(WIPO)

**RECORDS  
OF THE  
STRASBOURG  
DIPLOMATIC CONFERENCE  
ON THE  
INTERNATIONAL PATENT CLASSIFICATION**

**MARCH 15 TO 24, 1971**



STRASBOURG



GENEVA

1973



## EDITOR'S NOTE

These *Records* of the Strasbourg Diplomatic Conference on the International Patent Classification (1971) contain all the official documents in relation to the Conference which were issued before and during the Conference.

By "official documents" is meant the Circular Letters of Invitation to the Conference and the documents which were distributed jointly by the Secretariat General of the Council of Europe and the World Intellectual Property Organization (WIPO) in their capacity either as organizers or as Secretariat of the Conference.

The texts of the Circular Letters of Invitation sent by the Secretariat General of the Council of Europe and by WIPO, and the lists of the States and Organizations invited, are published under the heading "Invitations to the Conference."

The Conference Documents are grouped in two series : Main Series "IPC/DC" and Information Series "IPC/DC/INF."

The Main Series contains the successive drafts of the Strasbourg Agreement—including the Draft Final Act and the Draft Recommendations concerning the International Patent Classification—observations of Governments and International Organizations on the said drafts, proposed amendments to the drafts, the Draft Rules of Procedure of the Conference and the Draft General Report.

The Information Series contains general information, the provisional lists of participants in the Conference and Conference documents.

These *Records* reproduce the Conference documents in their numerical order. Each document, as reproduced, is identified first by its number (in bold type), then by its author or originator (in small capitals), and finally by its subject matter (in bold characters).

The date and the original language of each document are indicated in the lists of documents published on pages 27 and 93. Most of the documents are reproduced without any omission. However, in cases where the original document repeated long passages of another document, such passages are merely referred to in the version reproduced in these *Records* in the interests of a more economical presentation. Finally, the various lists of participants distributed during the Conference are not reproduced but are all consolidated in a correct final version appearing under the heading "Participants in the Conference."

The summary minutes were prepared during the Conference, so that the interventions made in English were summarized in English and those made in French were summarized in French. Interventions made in Spanish were summarized in English or in French, at the minute writer's convenience. The Delegation of Germany (Federal Republic), according to the provisions of Article 45(3) of the Rules of Procedure, provided for simultaneous interpretation of the interventions of those of its members who spoke in German.

During the Conference, the minutes referred to above were distributed to the participants, who were able to file corrections with the Secretariat. Thus the minutes reproduced here differ in two respects from the minutes distributed during the Conference : they incorporate any corrections suggested by any participant to his or her own intervention ; all passages which, in the original minutes,

appeared in French appear here in English translation. These translations were prepared after the Conference under the responsibility of WIPO.

A report on the work of the Main Committee was prepared by the Rapporteur General, discussed in and by the competent organs of the Conference, and approved.

The Strasbourg Agreement was signed in English and in French, both texts being equally authentic. These *Records* contain only the English text. The French text is reproduced in the French version of these *Records*, published separately.

As far as all signed texts are concerned, it should be noted that a certain unification of presentation (concerning capital letters in particular) was made in these *Records* which does not concern the substance of the text.

Finally, the *Records* contain the Indexes which consist of an index based on the numbers of the Articles ("Index of the texts adopted at the Conference"), an index based on the key-words ("Catchword Index") and the Indexes of States, Organizations and Persons having participated in the Conference.

The numbers which appear in the indexes refer to the *pages* of these *Records*, with the exception of the numbers in italics in the Indexes of States, Organizations and Persons, which refer to *paragraphs* of the summary minutes.

Geneva/Strasbourg, 1972.

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**INVITATIONS  
TO THE CONFERENCE**



## CIRCULAR LETTERS OF INVITATION

sent

by the Secretary General of the Council of Europe and by the Director  
General of the World Intellectual Property Organization

### I

#### TO STATES MEMBERS OF THE PARIS UNION

Strasbourg/Geneva, June 25, 1970

##### *Salutations*

With reference to the decisions taken by the Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union for the Protection of Industrial Property, we have the honor to invite your Government to be represented at the Diplomatic Conference on the International Patent Classification, which will be held in Strasbourg (France), at the headquarters of the Council of Europe, under the auspices of the Council of Europe and the World Intellectual Property Organization (WIPO).

The Diplomatic Conference will begin on March 15, 1971, at 11 a.m., and will continue until March 24, 1971.

The draft agenda (document IPC/DC/1) is attached to this letter.

In addition, we are sending you herewith a copy of document IPC/DC/2, which contains the text of the Draft Agreement Concerning the International Patent Classification and the explanatory report relating thereto, drawn up by the Secretariat General of the Council of Europe and the International Bureau of WIPO. Additional copies have been sent to you under separate cover and further copies will be sent on request.

We are also enclosing a copy of document IPC/DC/INF/1, giving information on documents mentioned in IPC/DC/2.

It would be very much appreciated if you would transmit the observations of your Government on document IPC/DC/2, referred to above, before November 15, 1970.

So as to facilitate the organization of the Conference, we should be very grateful if you would communicate the names and titles of the members of the Delegation of your country before February 1, 1971.

Member States of the Council of Europe are invited to address all communications to the Secretary General of the Council of Europe, Strasbourg (France). Other States are invited to address communications to the Director General of WIPO, 32 chemin des Colombettes, Geneva (Switzerland).

Documents containing the observations of the Governments and Organizations invited will be sent to you in good time before the date of the Conference.

You will receive further information concerning the Diplomatic Conference in due course.

##### *Compliments*

## STATES MEMBERS OF THE PARIS UNION

### Invited

Algeria	Iceland	Philippines
Argentina	Indonesia	Poland
Australia	Iran	Portugal
Austria	Ireland	Republic of Viet-Nam
Belgium	Israel	Romania
Brazil	Italy	San Marino
Bulgaria	Ivory Coast	Senegal
Cameroon	Japan	South Africa
Canada	Kenya	Soviet Union
Central African Republic	Lebanon	Spain
Ceylon <sup>1</sup>	Liechtenstein	Sweden
Chad	Luxembourg	Switzerland
Cuba	Madagascar	Syrian Arab Republic
Cyprus	Malawi	Togo
Czechoslovakia	Malta	Trinidad and Tobago
Dahomey	Mauritania	Tunisia
Denmark	Mexico	Turkey
Dominican Republic	Monaco	Uganda
Finland	Morocco	United Arab Republic <sup>2</sup>
France	Netherlands	United Kingdom
Gabon	New Zealand	United Republic of Tanzania
Germany (Federal Republic)	Niger	United States of America
Greece	Nigeria	Upper Volta
Haiti	Norway	Uruguay
Holy See	People's Republic of the	Yugoslavia
Hungary	Congo	Zambia

## II

### TO STATES NOT MEMBERS OF THE PARIS UNION

Strasbourg/Geneva, June 25, 1970

#### *Salutations*

With referencc to the decisions taken by the Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union for the Protection of Industrial Property, we have the honor to invite your Government to be represented by observers at the Diplomatic Conference on the International Patent Classification, which will be held in Strasbourg (France), at the headquarters of the Council of Europe, under the auspices of the Council of Europe and the World Intellectual Property Organization (WIPO).

#### *Editor's Notes:*

<sup>1</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as "Sri Lanka."

<sup>2</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as "Egypt."

The Diplomatic Conference will begin on March 15, 1971, at 11 a.m., and will continue until March 24, 1971.

The draft agenda (document IPC/DC/1) is attached to this letter.

In addition, we are sending you herewith a copy of document IPC/DC/2, which contains the text of the Draft Agreement Concerning the International Patent Classification and the explanatory report relating thereto, drawn up by the Secretariat General of the Council of Europe and the International Bureau of WIPO. Additional copies have been sent to you under separate cover and further copies will be sent on request.

We are also enclosing a copy of document IPC/DC/INF/1, giving information on documents mentioned in IPC/DC/2.

It would be very much appreciated if you would transmit the observations of your Government on document IPC/DC/2, referred to above, before November 15, 1970.

So as to facilitate the organization of the Conference, we should be very grateful if you would communicate the names and titles of the members of the Delegation of your country before February 1, 1971.

You are invited to address the communications referred to above and any question relating to the organization of the Conference to the Director General of WIPO, 32 chemin des Colombettes, Geneva (Switzerland).

Documents containing the observations of the Governments and Organizations invited will be sent to you in good time before the date of the Conference.

You will receive further information concerning the Diplomatic Conference in due course.

*Compliments.*

## STATES NOT MEMBERS OF THE PARIS UNION

### Invited in the Capacity of Observers

Afghanistan	Guatemala	Pakistan
Albania	Guinea	Panama
Barbados	Guyana	Paraguay
Bolivia	Honduras	Peru
Botswana	India	Republic of China
Burma	Iraq	Republic of Korea
Burundi	Jamaica	Rwanda
Byelorussian SSR	Jordan	Saudi Arabia
Cambodia <sup>1</sup>	Kuwait	Sierra Leone
Chile	Laos	Singapore
Colombia	Lesotho	Somalia
Congo (Democratic Republic of the) <sup>2</sup>	Liberia	Southern Yemen <sup>3</sup>
Costa Rica	Libya	Sudan
Ecuador	Malaysia	Swaziland
El Salvador	Maldives	Thailand
Equatorial Guinea	Mali	Ukrainian SSR
Ethiopia	Mauritius	Venezuela
Gambia	Mongolia	Western Samoa
Ghana	Nepal	Yemen
	Nicaragua	

*Editor's Notes:*

<sup>1</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as the "Khmer Republic."

<sup>2</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as "Zaire."

<sup>3</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as the "People's Democratic Republic of Yemen."

## III

**TO INTERGOVERNMENTAL ORGANIZATIONS**

Strasbourg/Geneva, June 25, 1970

*Salutations*

With reference to the decisions taken by the Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union for the Protection of Industrial Property, we have the honor to invite your Organization to be represented by observers at the Diplomatic Conference on the International Patent Classification, which will be held in Strasbourg (France), at the headquarters of the Council of Europe, under the auspices of the Council of Europe and the World Intellectual Property Organization (WIPO).

The Diplomatic Conference will begin on March 15, 1971, at 11 a.m., and will continue until March 24, 1971.

The draft agenda (document IPC/DC/1) is attached to this letter.

In addition, we are sending you herewith a copy of document IPC/DC/2, which contains the text of the Draft Agreement Concerning the International Patent Classification and the explanatory report relating thereto, drawn up by the Secretariat General of the Council of Europe and the International Bureau of WIPO. Additional copies have been sent to you under separate cover and further copies will be sent on request.

We are also enclosing a copy of document IPC/DC/INF/1, giving information on documents mentioned in IPC/DC/2.

It would be very much appreciated if you would transmit the observations of your Organization on document IPC/DC/2, referred to above, before November 15, 1970.

So as to facilitate the organization of the Conference, we should be very grateful if you would communicate the names and titles of your representatives before February 1, 1971.

Communications may be addressed either to the Secretary General of the Council of Europe, Strasbourg (France), or to the Director General of WIPO, 32 chemin des Colombettes, Geneva (Switzerland).

Documents containing the observations of the Governments and Organizations invited will be sent to you in good time before the date of the Conference.

You will receive further information concerning the Diplomatic Conference in due course.

*Compliments.***INTERGOVERNMENTAL ORGANIZATIONS****Invited in the Capacity of Observers**

African and Malagasy Industrial Property Office (OAMPI)

Commission of the European Communities

European Free Trade Association (EFTA)

General Treaty on Central American Economic Integration (SIECA)

Industrial Development Centre for Arab States (IDCAS)

Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents  
International Institute for the Unification of Private Law (UNIDROIT)  
International Patent Institute (IIB)  
Latin American Free Trade Association (LAFTA)  
Organization of American States (OAS)  
United Nations (UN)  
United Nations Conference on Trade and Development (UNCTAD)  
United Nations Industrial Development Organization (UNIDO)

#### IV

### TO INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

Strasbourg/Geneva, June 25, 1970

#### *Salutations*

With reference to the decisions taken by the Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union for the Protection of Industrial Property, we have the honor to invite your Organization to be represented by observers at the Diplomatic Conference on the International Patent Classification, which will be held in Strasbourg (France), at the headquarters of the Council of Europe, under the auspices of the Council of Europe and the World Intellectual Property Organization (WIPO).

The Diplomatic Conference will begin on March 15, 1971, at 11 a.m., and will continue until March 24, 1971.

The draft agenda (document IPC/DC/1) is attached to this letter.

In addition, we are sending you herewith a copy of document IPC/DC/2, which contains the text of the Draft Agreement Concerning the International Patent Classification and the explanatory report relating thereto, drawn up by the Secretariat General of the Council of Europe and the International Bureau of WIPO. Additional copies have been sent to you under separate cover, and further copies will be sent on request.

We are also enclosing a copy of document IPC/DC/INF/1, giving information on documents mentioned in IPC/DC/2.

It would be very much appreciated if you would transmit the observations of your Organization on document IPC/DC/2, referred to above, before November 15, 1970.

So as to facilitate the organization of the Conference, we should be very grateful if you would communicate the names and titles of your representatives before February 1, 1971.

The number of seats which can be reserved for observers being limited, we should appreciate it if you would restrict the number of your representatives to three persons.

Communications may be addressed either to the Secretary General of the Council of Europe, Strasbourg (France), or to the Director General of WIPO, 32 chemin des Colombettes, Geneva (Switzerland).

Documents containing the observations of the Governments and Organizations invited will be sent to you in good time before the date of the Conference.

You will receive further information concerning the Diplomatic Conference in due course.

*Compliments.*



**INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS**  
**invited in the Capacity of Observers**

Asian Patent Attorneys Association (APAA)

Committee of National Institutes of Patent Agents (CNIPA)

Council of European Industrial Federations (CIFE)

European Industrial Research Management Association (EIRMA)

Inter-American Association of Industrial Property (ASIPI)

International Association for the Protection of Industrial Property (IAPIP)

International Chamber of Commerce (ICC)

International Federation of Inventors' Associations (IFIA)

International Federation of Patent Agents (FICPI)

Pacific Industrial Property Association (PIPA)

Union of European Patent Agents

Union of Industries of the European Community (UNICE)

**PARTICIPANTS  
IN THE CONFERENCE**



## STATES MEMBERS OF THE PARIS UNION

**ALGERIA***Head of Delegation*

S. BENDIFALLAH, Consul-General, Consulate of the Democratic and Popular Republic of Algeria, Strasbourg.

*Members of Delegation*

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*Member of Delegation*

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**AUSTRIA***Head of Delegation*

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*Member of Delegation*

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*Members of Delegation*

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*Deputy Head of Delegation*

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*Members of Delegation*

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W. RUBACH, Regierungsdirektor a. D., German Patent Office, Munich.

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*Members of Delegation*

M. MOHSENI, Director, Legal Department, Ministry of Justice, Teheran.

E. DJAHANNEMA, First Secretary, Permanent Mission of Iran, Geneva.

I. SAID-VAZIRI, Second Secretary, Imperial Embassy of Iran, Brussels.

**IRELAND***Head of Delegation*

P. SLAVIN, Principal Examiner, Patents Office, Dublin.

**ITALY***Head of Delegation*

P. ARCHI, Ambassador, Ministry of Foreign Affairs, Rome.

*Members of Delegation*

G. TROTTA, Judge at the Court of Appeal, Ministry of Foreign Affairs, Rome.

G. PIZZINI (Mrs.), Head of Division, Central Patent Office, Ministry of Industry, Commerce and Handicrafts, Rome.

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L. GRILLINI, Patent Expert, Ministry of Industry, Commerce and Handicrafts, Rome.

**JAPAN***Head of Delegation*

Y. ABE, Director, Second Examination Division, Patent Office, Ministry of International Trade and Industry, Tokyo.

*Members of Delegation*

K. TERADA, Secretary, Specialized Agencies Division, Ministry of Foreign Affairs, Tokyo.

K. TAKANO, Second Secretary, Mission of Japan, Geneva.

**LIECHTENSTEIN***Head of Delegation*

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**LUXEMBOURG***Head of Delegation*

J.-P. HOFFMANN, Head, Industrial Property Service, Luxembourg.

**MONACO***Head of Delegation*

R. JUNG, Consul of the Principality of Monaco, Strasbourg.

**NETHERLANDS***Head of Delegation*

W. M. J. C. PHAF, Legal Counsellor, Ministry of Economic Affairs, The Hague.

*Members of Delegation*

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**NIGERIA***Head of Delegation*

O. ONAFALUJO, Lawyer, Federal Ministry of Trade, Lagos.

**NORWAY***Head of Delegation*

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*Members of Delegation*

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A. G. MODAL, Head of Section, Office for the Protection of Industrial Property, Oslo.

**PHILIPPINES***Head of Delegation*

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*Member of Delegation*

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**SOUTH AFRICA***Head of Delegation*

W. W. RAUTENBACH, Commercial Counsellor, Embassy of the Republic of South Africa, Paris.

*Member of Delegation*

J. R. VON GERNET, First Secretary, Embassy of the Republic of South Africa, Paris.

**SPAIN***Head of Delegation*

Count de SANTOVENIA, Minister Plenipotentiary, Head of Special Mission, Spanish Consul General, Strasbourg.

*Member of Delegation*

A. F. MAZARAMBROZ Y MARTÍN RABADÁN, Head, Industrial Property Office, Ministry of Industry, Madrid.

**SWEDEN***Head of Delegation*

G. BORGGÅRD, Director General, Royal Patent and Registration Office, Stockholm.

*Members of Delegation*

S. KÄLLBERG, Head of Section, Royal Patent and Registration Office, Stockholm.

B. HANSSON, Head of Section, Royal Patent and Registration Office, Stockholm.

**SWITZERLAND***Head of Delegation*

W. STAMM, Director, Federal Bureau of Intellectual Property, Berne.

*Members of Delegation*

E. LIPS, Deputy Director, Federal Bureau of Intellectual Property, Berne.

P. J. POINTET, Professor, University of Neuchâtel, Zurich.

**TOGO***Head of Delegation*

E. BONETE, Secretary, Ministry of Commerce, Lomé.

**TUNISIA***Head of Delegation*

A. MILADI, Administrator, Ministry of National Economy, Tunis.

**TURKEY<sup>1</sup>***Head of Delegation*

A. AKSAN, Counsellor of Embassy, Deputy Representative of Turkey to the Council of Europe, Strasbourg.

**UNITED ARAB REPUBLIC<sup>2</sup>***Head of Delegation*

B. E. REDA, Second Secretary, Embassy of the United Arab Republic, Paris.

**UNITED KINGDOM***Head of Delegation*

E. ARMITAGE, Comptroller-General, Patent Office, London.

*Members of Delegation*

D. G. GAY, Superintending Examiner, Patent Office, London.

R. BOWEN, Superintending Examiner, Patent Office, London.

**UNITED STATES OF AMERICA***Head of Delegation*

P. TREZISE, Assistant Secretary of State, Department of State, Washington, D.C.

*Deputy Heads of Delegation*

R. A. WAHL, Assistant Commissioner of Patents, Patent Office, Department of Commerce, Washington, D.C.

H. J. WINTER, Chief, Business Practices Division, Department of Commerce, Washington, D.C.

*Members of Delegation*

J. J. SHEEHAN, International Patent Specialist, Patent Office, Department of Commerce, Washington, D.C.

S. NILSEN (Miss), Deputy Assistant Legal Adviser, Department of State, Washington, D.C.

**YUGOSLAVIA***Head of Delegation*

N. JANKOVIĆ, Head, Legal Department, Federal Patent Office, Belgrade.

*Editor's Notes:*

<sup>1</sup> The Delegate of this State participated in the Conference in the capacity of observer.

<sup>2</sup> This State has since changed its name; at the time of publication of these *Records* it is designated as "Egypt."

## STATES NOT MEMBERS OF THE PARIS UNION

### Participating in the Capacity of Observers

#### BURUNDI

S. NDABAMBALIRE, First Secretary of Embassy, Paris.

#### REPUBLIC OF CHINA

P. CHENG, Ambassador, Permanent Mission of the Republic of China, Geneva.  
Y. HUANG, Second Secretary, Permanent Mission of the Republic of China, Geneva.

## ORGANIZATIONS

### Participating in the Capacity of Observers

#### Intergovernmental organizations

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##### *International Patent Institute (IIB)*

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P. VAN WAASBERGEN, Technical Director, The Hague.  
L. F. KNIGHT, Counsellor for Information Retrieval, The Hague.  
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##### *United Nations Conference on Trade and Development (UNCTAD)*

H. STORDEL, Assistant Director, Manufactures Division, Geneva.

#### International non-governmental organizations

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##### *International Chamber of Commerce (ICC)*

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##### *International Federation of Inventors' Associations (IFIA)*

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##### *International Federation of Patent Agents (FICPI)*

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##### *Pacific Industrial Property Association (PIPA)*

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##### *Union of European Patent Agents*

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M. DE BRABANTER, Patent Counsel, Brussels.  
J. DE MUYSER, Patent Counsel, Luxembourg.

##### *Union of Industries of the European Community (UNICE)*

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F. PELLEGGATTA, Montecatini Edison S.p.A., Milan.

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# **CONFERENCE DOCUMENTS**



# CONFERENCE DOCUMENTS OF THE MAIN "IPC/DC" SERIES

(IPC/DC/1 to IPC/DC/46)

## LIST OF DOCUMENTS

prepared by the Secretariat General of the Council of Europe and the World Intellectual Property Organization

<i>No.</i>	<i>Submitted by</i>	<i>Date and original language of the document</i>	<i>Subject</i>
1	Secretariat General of the Council of Europe, WIPO	June 25, 1970 (E and F) <sup>1</sup>	Draft Agenda
2	Secretariat General of the Council of Europe, WIPO	June 25, 1970 (E and F)	Draft Strasbourg Agreement Concerning the International Patent Classification
3	Secretariat General of the Council of Europe, WIPO	December 30, 1970 (E and F)	Draft Rules of Procedure
4	Argentina, Germany (Federal Republic), Norway, United Kingdom, United States of America, International Patent Institute, International Chamber of Commerce	January 15, 1971 (E and F)	Observations on the Draft Strasbourg Agreement, presented by the Governments and Organizations (received by December 31, 1970)
5	Belgium, Ireland	February 19, 1971 (E and F)	Observations on the Draft Strasbourg Agreement, presented by the Governments (received by February 15, 1971)
6	Secretariat General of the Council of Europe, WIPO	February 19, 1971 (E and F)	Proposals concerning the Administrative Provisions of the Draft Strasbourg Agreement (document IPC/DC/2)
7	Secretariat General of the Council of Europe, WIPO	February 19, 1971 (E and F)	Draft Recommendations concerning the Administration of the International Patent Classification and the Financing of that Administration
8	Secretariat General of the Council of Europe, WIPO	February 19, 1971 (E and F)	Revision of the Draft Agenda (document IPC/DC/1)
9	Secretariat General of the Council of Europe, WIPO	March 12, 1971 (E and F)	Survey on the Use of the International Patent Classification

<sup>1</sup> "E" denotes that the original of the document is English, "F" that it is French.

No.	Submitted by	Date and original language of the document	Subject
10	Soviet Union	March 12, 1971 (E and F)	Observations of interested Organizations of the Soviet Union on the Draft Strasbourg Agreement : Preamble ; Arts. 1 ; 4 ; 5 ; 7 ; 15 ; 16
11	United States of America	March 14, 1971 (E)	IPC/DC/2, Arts. 2(1)(a)(iii) ; 4(4) ; 12(3)(a)(ii), (4) ; 13 ; 16(1)(a)
12	Australia	March 15, 1971 (E)	IPC/DC/2, Art. 4(3), (5)
13	Australia	March 15, 1971 (E)	IPC/DC/2, Art. 9(4)
14	United Kingdom	March 15, 1971 (E)	IPC/DC/2, Arts. 1 ; 4(5) ; 5(6) ; 10(3)
15	Belgium, France, Luxembourg, Netherlands, Switzerland, United Kingdom	March 15, 1971 (E)	IPC/DC/2, Arts. 5(2)(b) (d), (3) ; 7(1)(c)
16	Netherlands	March 15, 1971 (F)	IPC/DC/2, Art. 3(2)
17	Netherlands	March 15, 1971 (F)	IPC/DC/2, Art. 4
18	United States of America	March 15, 1971 (E)	IPC/DC/2, Arts. 2(1)(a)(ii) (iii), (2)(b) (c) ; 4(5) ; 5(2)(d), (4) (a) (d), (6)(a)(b)
19	Norway	March 15, 1971 (E)	IPC/DC/2, Art. 4(1)
20	Netherlands	March 15, 1971 (F)	IPC/DC/2, Art. 5(6)
21	Argentina, Brazil	March 16, 1971 (F)	IPC/DC/2, Preamble ; Arts. 3(2) ; 5(4)(c) ; 16(2)
22	Togo	March 16, 1971 (F)	IPC/DC/2, Art. 4(4)
23	United States of America	March 16, 1971 (E)	IPC/DC/2, Art. 4(3)
24	Austria	March 16, 1971 (E)	IPC/DC/2, Art. 5(2)(c)
25	Argentina, Brazil	March 16, 1971 (F)	IPC/DC/2, Art. 7(2)(a)(vi)
26	Algeria	March 16, 1971 (F)	IPC/DC/2, Art. 16(1)(a)
27	Australia	March 17, 1971 (E)	IPC/DC/23, Art. 4(3)
28	Brazil, France, Germany (Federal Republic), United Kingdom, United States of America	March 17, 1971 (E)	IPC/DC/2, Art. 16(1), (3)(a)(c), (5) ; (see also document IPC/DC/6)
29	Working Group I on Article 5	March 17, 1971 (E)	Report (Examination of the proposals for amendment of Article 5(2)(b) (d), (3), contained in document IPC/DC/15)
30	Algeria	March 17, 1971 (F)	IPC/DC/2, Arts. 5(2), (5) ; 7(1)(c)
31	Working Group II on Article 3(2)	March 17, 1971 (E and F)	Report (Examination of the proposals for amendment of Article 3(2), contained in documents IPC/DC/16 and IPC/DC/21)
32	Argentina, Togo	March 18, 1971 (F)	IPC/DC/2, Art. 5(4)

No.	Submitted by	Date and original language of the document	Subject
33	Drafting Committee	March 20, 1971 (E and F)	Draft Strasbourg Agreement Concerning the International Patent Classification
34	Secretariat General of the Council of Europe, WIPO	March 20, 1971 (E and F)	Draft Final Act of the Strasbourg Diplomatic Conference on the International Patent Classification
35	Romania	March 20, 1971 (F)	Draft Recommendation concerning the Exchange of Concordance Tables and Lists of Patent Documents reclassified according to the International Patent Classification
36	Rapporteur General	March 21, 1971 (F)	Draft Report
37	Credentials Committee	March 22, 1971 (E)	Report
38	Secretariat of the Conference	March 19, 1971 (E and F)	Corrigendum to document IPC/DC/9
39	Main Committee	March 22, 1971 (E and F)	Draft Strasbourg Agreement Concerning the International Patent Classification
40	Main Committee	March 22, 1971 (E and F)	Draft Final Act of the Strasbourg Diplomatic Conference on the International Patent Classification
41	Main Committee	March 22, 1971 (E and F)	Draft Recommendations Concerning the International Classification
42	Main Committee	March 22, 1971 (F)	Draft Report ( <i>see also</i> document IPC/DC/36)
43		March 24, 1971 (E and F)	Strasbourg Agreement Concerning the International Patent Classification. Text adopted by the Conference
44		March 23, 1971 (E and F)	Recommendations Concerning the International Patent Classification. Texts adopted by the Conference
45		March 22, 1971 (F)	General Report. Text adopted by the Conference
46	Secretariat of the Conference	March 24, 1971 (E and F)	List of signatory countries of the Strasbourg Agreement and of the Final Act of the Conference

**TEXTS OF DOCUMENTS**  
**(IPC/DC/1 to IPC/DC/46)**

**IPC/DC/1**

June 25, 1970 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Draft Agenda**

1. Opening of the Conference by the Secretary General of the Council of Europe
2. Address by the Director General of WIPO
3. Election of the Chairman of the Conference
4. Adoption of the Agenda
5. Adoption of the Rules of Procedure of the Conference
6. Election of :
  - (a) the Vice-Chairmen of the Conference
  - (b) the members of the Credentials Committee
  - (c) the members of the Drafting Committee
7. Consideration of the reports of the Credentials Committee
8. Consideration of the texts submitted by the Main Committee <sup>1</sup>
9. Final vote on :
  - (a) the text of the Agreement Concerning the International Patent Classification
  - (b) the General Report
  - (c) all other texts, resolutions or recommendations
10. Closing of the Conference by the Chairman of the Conference.

*Note* : The signing of the instruments adopted by the Conference will take place at a special ceremony immediately after the closing of the Conference.

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<sup>1</sup> According to the Draft Rules of Procedure, the Conference would be transformed into Main Committee prior to consideration of the Draft Agreement.

IPC/DC/2

June 25, 1970 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Draft Strasbourg Agreement Concerning the International Patent Classification**

## SUMMARY

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## PART I

**Introduction***The Present Document*

1. This document contains a proposal for the establishment, within the framework of the Paris Convention for the Protection of Industrial Property (hereinafter designated as "the Paris Convention"), of a Special Agreement, for the purpose of administering the International Patent Classification established, pursuant to the provisions of the European Convention on the International Classification of Patents for Invention of December 19, 1954, by the Council of Europe.

2. It comprises the following four parts :

- (i) a historical review of the development of the International Patent Classification from 1954 until the entry into force in 1968 of the complete Classification ;
- (ii) a review of the preparatory work for the Diplomatic Conference of Strasbourg and the reasons therefor ;
- (iii) a brief analysis of the principles governing the proposals for the revision of the European Convention on the International Classification of Patents for Invention of December 19, 1954 ;
- (iv) the text of the Draft Special Agreement Concerning the International Patent Classification to be submitted to the Diplomatic Conference of Strasbourg, together with a commentary thereon.

3. This document was prepared by the Secretariat General of the Council of Europe and by the International Bureau of WIPO <sup>1</sup>.

*What is a Special Agreement?*

4. The member countries of the Paris Union for the Protection of Industrial Property may, by virtue of Article 19 of the Stockholm Act of the Paris Convention, make special agreements for the protection of industrial property either bilaterally or in the form of multilateral treaties. It is proposed that the draft Agreement contained in this document will be such a special Agreement. This means that only member countries of the Paris Union may become members of the special Union established by the special Agreement.

<sup>1</sup> The Convention Establishing the World Intellectual Property Organization (WIPO) entered into force on April 26, 1970.



*What are the Advantages of an International Patent Classification?*

5. The International Patent Classification established pursuant to the provisions of the European Convention of December 19, 1954, was developed essentially to meet practical international requirements relating to inventions. In view of the ever-increasing bulk of patent documentation which is, on the international level, constantly being exchanged between countries, it has become of vital importance that as many countries as possible should classify their patents according to the same system. Use of the International Patent Classification means, for example, that country A, which uses the Classification, receiving foreign patent documentation from country B, which also uses the Classification, is spared the time and expense of reclassifying that documentation according to its own national system and can easily include the material in its documentation system. Thus, the task of countries having a novelty examination system for patents is greatly facilitated.

6. In view of the recent important development of international cooperation in the patent field, such as the negotiations concerning the proposed Patent Cooperation Treaty (PCT) and the proposed Convention setting up a European System for the Grant of Patents, the International Patent Classification is assuming an even more important role.

7. Developing countries would derive a special benefit from adopting the International Patent Classification. For countries not having a national classification, the International Patent Classification saves them the arduous task of elaborating one of their own, and gives the added advantage that foreign patent documentation can be easily incorporated in their documentation system and referred to, without language barriers, as the Classification gives the key to the subject matter of a particular document and enables the searcher to know when he should have a translation made. Adoption of the International Patent Classification would make it possible in these countries to assemble systematically the world's patent documentation—a source *par excellence* of recent and valuable technological information—and would facilitate its use.

PART II

**Historical Review**

*Development of the International Patent Classification within the framework of the Council of Europe*

*The European Convention*

8. The European Convention on the International Classification of Patents for Invention (hereinafter referred to as “the European Convention”) was signed, at Strasbourg, on December 19, 1954, by the following member countries of the Council of Europe : Belgium, Denmark, France, Germany (Federal Republic), Ireland, Italy, Netherlands, Norway, Sweden, Turkey, United Kingdom. On October 22, 1965, it was signed by Switzerland. Greece, a member of the Council of Europe until the end of 1970, has also signed, but not ratified, the European Convention.

9. The following 15 countries have ratified or acceded to the European Convention and are party thereto : Australia, Belgium, Denmark, France, Germany (Federal Republic), Ireland, Israel, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom.

10. Australia, Israel and Spain, which are not members of the Council of Europe, have become party to the European Convention by virtue of Article 5 thereof, which states that, after its entry into force, the European Convention is open to accession by any member country of the Paris Union for the Protection of Industrial Property (hereinafter referred to as “the Paris Union”).

11. The following member countries of the Council of Europe are not party to the European Convention : Austria, Cyprus, Iceland, Luxembourg, Malta.

*Development of the Classification*

12. At the time when the European Convention was signed, it was accompanied by a list of the sections, classes and subclasses of the International Classification of Patents for Invention (hereinafter referred to as "the Classification"). These were a mere skeleton on the basis of which the Classification was to be developed. Article 2(1) of the European Convention entrusted the Committee of Experts on Patents of the Council of Europe (hereinafter referred to as "the Committee of Experts on Patents") with the further elaboration of the Classification and also the modification of the skeleton. That Committee has general competence in the field of industrial property and all the member countries of the Council of Europe have a seat on that Committee. The following countries which are not members of the Council of Europe are represented on that Committee by observers: Israel, Monaco, Portugal, Spain, United States of America.

13. In 1955, the Committee of Experts on Patents set up a Classification Working Party to revise the classes and subclasses and to prepare the further elaborations, that is to say, subdivisions (groups and subgroups) of the Classification. That Working Party elaborated, between 1954 and 1965, the first complete edition of the Classification, which was published section by section as each was completed so as to permit all users, in conformity with a Recommendation of the Committee of Experts on Patents, to apply each completed section at the earliest practicable date after publication of that section, without waiting for approval by the Committee of Experts on Patents in conformity with Article 2(2) of the European Convention.

14. During the years 1966 and 1967, the entire Classification was revised so as to take into account further developments in technology and to remove ambiguities and lacunae in the system.

*Adoption, Entry into Force and Publication of the Classification*

15. In November 1967, the Committee of Experts on Patents approved the completed Classification submitted to it by the Classification Working Party. Furthermore, the Foreword and Guide drawn up by the Classification Working Group were approved, the Committee of Experts on Patents deciding that those texts should be considered an integral part of the Classification.

16. Thereafter, in conformity with Article 2(2) of the European Convention, the Classification entered into force on September 1, 1968.

17. On the same date, a printed edition of the entire text of the Classification, in its English and French versions, was published for the Council of Europe by Morgan-Grampian Books Limited, of London. The edition was printed in loose-leaf form so as to allow subsequent modifications to be published separately and incorporated in the existing edition.

18. The Guide to the Classification, appearing in Volume I of the printed edition, describes the layout, principles, and interpretation of the Classification.

19. At its meeting in November 1967, the Committee of Experts on Patents agreed to the principle that the Classification should not be subject to a general revision at intervals shorter than once every five years. It decided, however, that the text of the Foreword and Guide might be subject to revision after a shorter period.

20. The Committee of Experts on Patents further authorized the Classification Working Party to complete Catchword Indexes to the Classification in English, French and German for publication without the previous approval of the Committee. The English and German Catchword Indexes have been published by Morgan-Grampian Books Limited. The French Catchword Index is not yet available.

21. The tasks of the Classification Working Party, which ceased to exist in 1968, have been taken over by the Joint ad hoc Committee of the Council of Europe and BIRPI on the International Classification of Patents, described in paragraph 31 below.

### PART III

#### Preparatory Work

##### *Decision by the Committee of Experts on Patents of the Council of Europe Concerning the Revision of the European Convention*

22. The Committee of Experts on Patents expressed the view, in its session of November 6 to 8, 1967, that

- (i) it was necessary to give the Classification a more universal character in order to facilitate its adoption on a world-wide basis ;
- (ii) the countries which apply the Classification should be encouraged to accede to the European Convention, and all contracting countries should have equal rights ;
- (iii) the Secretary General of the Council of Europe should study, in collaboration with BIRPI, the measures—such as the revision of the European Convention—which would allow this objective to be attained, and should submit to it a report at its next meeting in November 1968.

23. There were several reasons why the Committee of Experts on Patents reached these conclusions.

24. In recent years, it had become clear that the Classification was of universal value and that it was in the interest of the users thereof that as many countries as possible should be encouraged to adopt it. In fact, many countries which are not members of the Council of Europe have been using the Classification for a number of years. This is true, for example, of a number of Eastern European countries, including in particular the Soviet Union, and of the United States of America. Several other countries, such as Japan, had indicated their intention to use the Classification as of 1969 or 1970. The world-wide character that the Classification has acquired and the extent to which it is used are illustrated by the report on the use of the Classification in the world at the present time which is contained in the Annex to this document.

25. According to the European Convention, any member country of the Paris Union not a member of the Council of Europe may accede to the Convention (Article 5(1)). Three have done so : Australia, Israel, Spain. However, no country which is not a member of the Council of Europe can be a member of the Committee of Experts on Patents ; it can only be represented by observers. Consequently, such countries were unable to vote at the time the complete Classification was adopted, nor can they vote on the amendments and additions to the Classification.

26. This situation is obviously not satisfactory, the more so as the Classification will—in the light of experience in regard to its use and the development of technology—have to be constantly revised. The unsatisfactory nature of the situation becomes more immediately apparent if one considers the case of the three countries which, according to the statistics of recent years, examine the greatest number of applications for patents and inventors' certificates—namely, Japan, the Soviet Union and the United States of America. These countries, if they acceded to the European Convention, would not be able to participate in decisions on the revision of the Classification. The same is true for all the—more than 60—member countries of the Paris Union which are not members of the Council of Europe<sup>1</sup>.

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<sup>1</sup> It is to be noted that all the countries members of the Council of Europe are members of the Paris Union.

*Decision of the Conference of Representatives of the Paris Union to Negotiate with the Council of Europe*

27. At its Second Session of December 18 to 21, 1967, the Conference of Representatives of the Paris Union decided that the Director of BIRPI should enter into negotiations with the Council of Europe for the purpose of seeking ways which would permit all countries of the Paris Union so desiring to participate on an equal footing in the development of the Classification, and that he should report to the 1968 session of the Executive Committee of the Paris Union<sup>1</sup>.

*Negotiations Between the Secretariat General of the Council of Europe and BIRPI*

28. Negotiations between the Secretariat General of the Council of Europe and BIRPI led in 1968 to conclusions of which the most important are set out in paragraph 31 below, and which were approved by the competent organs of the Council of Europe and of BIRPI.

29. The conclusions were approved by the Committee of Ministers of the Council of Europe at its 178th meeting held from March 3 to 7, 1969, in conformity with the proposals of the Committee of Experts on Patents agreed to at its meeting of November 18 to 21, 1968.

30. The same conclusions were approved by the Executive Committee of the Paris Union at its Fourth Session of September 24 to 27, 1968<sup>2</sup>.

31. The principal conclusions were the following :

“(1) There are two aims :

- (i) to give the Classification Convention a more universal character in order to facilitate its worldwide adoption ;
- (ii) to give all Contracting Parties an equal status.

To this end the Convention should be revised by a diplomatic conference to be convened in Strasbourg, jointly by the Council of Europe and BIRPI after a decision has been taken by the executive authorities of the two Organizations.

(2) Proposals for revision would be prepared by the two Organizations and should, at all events, comply with the following three conditions :

- (a) They should ensure that the International Classification continues to be properly applied.
- (b) They should not impair the classification system as worked out over fifteen years, i.e. the basic structure of the Classification should not be altered (although, of course, the system must be constantly perfected).
- (c) They should ensure that the new convention will lead to the geographical broadening of the Convention's scope, i.e. it must not come into force until it has been ratified by a certain number of States which are not Contracting Parties of the present Convention.

(3) Pending the entry into force of the new convention, a new ad hoc committee with a joint membership, i.e. comprising experts from five member States of the Council of Europe and experts from five States which are members of BIRPI, but not of the Council, should be set up to replace the Classification Sub-Committee established within the framework of the Council of Europe. This new committee might be named : “Joint ad hoc Committee of the Council of Europe and BIRPI on the International Classification of Patents.”

<sup>1</sup> See document CR/II/15, paragraph 23.

<sup>2</sup> See document CEP/IV/18, paragraphs 38 to 41, of September 27, 1968, referring to document CEP/IV/10, Annex, of August 1, 1968.

(4) The five Council of Europe countries will be : France, Germany (Federal Republic), Netherlands, Switzerland, United Kingdom (the five countries designated by the Committee of Experts to form the Classification Sub-Committee). The other five countries would be designated by BIRPI ; they should preferably include the USA, the USSR and Japan.

All experts would have equal status.

The International Patent Institute of The Hague would be invited to send an observer.

(5) ...

(6) ...

(7) The terms of reference of the Joint ad hoc Committee would be those already laid down by the Committee of Experts for the above-mentioned Sub-Committee at the meeting of November [See document EXP/Brev. (67)17] <sup>1</sup>.

(8) Pending the entry into force of the new Convention on the International Classification referred to in paragraphs (1) and (2) above, the Joint ad hoc Committee will submit its proposals to the Committee of Experts on Patents in accordance with Article 2 of the present Convention ; it will also make proposals to BIRPI.

(9) The Secretariat General of the Council of Europe and the Secretariat of BIRPI will supply the technical and administrative secretariat of the Joint ad hoc Committee. ...

(10) Pending the entry into force of the new convention, any other work relating to the International Classification will be carried out on the sole responsibility of the Secretariat General of the Council of Europe and all other correspondence will be signed by the Secretariat General alone.

(11) ...

(12) ...

(13) The Joint ad hoc Committee and its secretariat will cease to exist when the new convention comes into force and will be replaced by such bodies as are prescribed in the new convention."

### *Establishment of Principles Governing the Revision of the European Convention*

#### *First Session of the Joint ad hoc Committee*

32. Following the adoption of the Conclusions referred to in paragraph 31 above, the Joint ad hoc Committee of the Council of Europe and BIRPI on the Classification, set up in conformity with the decisions referred to in paragraphs 7 and 8 of the Conclusions, exchanged views on the subject of the revision of the European Convention, at its First Session, held at Berne from April 14 to 16, 1969.

33. In the light of the said exchange of views, the Secretariat General of the Council of Europe and BIRPI established a document entitled "Principles Governing the Revision of the European Convention on the International Classification of Patents for Invention, of December 19, 1954" (hereinafter referred to as "the Governing Principles") <sup>2</sup>.

<sup>1</sup> This document describes the tasks of the Joint ad hoc Committee as follows :

(a) to address to Parties to the European Convention during intervals between the five-yearly revisions recommendations with the purpose of facilitating the use of the Classification ;  
 (b) to prepare the five-yearly revisions of the Classification and the revisions of the Foreword and Guide ;  
 (c) to ensure the uniform application of the Classification ;  
 (d) to assist, as far as possible, in establishing translations of the Classification into languages which are not official languages of the Council of Europe.

<sup>2</sup> See document CE/BIRPI/14, Annex IV.

34. The Draft Agreement, as proposed in this document, is based on the Governing Principles, the main elements of which are described below in Part IV of this document.

35. The Governing Principles were considered and noted by the Executive Committee of the Paris Union at its Fifth Session of September 22 to 25, 1969<sup>1</sup>.

36. During the said session of the Executive Committee, a thorough discussion took place on the need to establish a Special Union and concerning the question whether that Union should have its own budget or whether its budget should be incorporated in the budget of the Paris Union. The results of that discussion led to the retaining of the principle laid down by the Governing Principles that a Special Union should be established.

37. The Committee of Experts on Patents of the Council of Europe, at its meeting of November 12 to 14, 1969, expressed its general agreement with the Governing Principles. It expressed some additional considerations on certain points, which have been taken into account in the establishment of the Draft Agreement.

38. The Executive Committee of the Paris Union and the Committee of Ministers of the Council of Europe decided to extend the terms of reference of the Joint ad hoc Committee of the Council of Europe and BIRPI so as to allow it to prepare for the revision of the European Convention.

39. The decision of the Committee of Ministers of the Council of Europe was taken at its 186th meeting, held from January 19 to 26, 1970, on the recommendation of the Committee of Experts on Patents.

#### *Establishment of Transitional Bodies to Prepare the First Revision of the Classification*

##### *Second Session of the Joint ad hoc Committee*

40. At its Second Session, held at Munich from October 21 to 24, 1969, the Joint ad hoc Committee of the Council of Europe and BIRPI set up the following bodies :

- (a) *a Bureau* composed of the Chairman and the three Vice-Chairmen of the Joint ad hoc Committee, together with the Chairmen of the five Working Groups mentioned in subparagraphs (b) to (f) below, and a representative of the International Patent Institute, to supervise and coordinate the work of the five Working Groups ;
- (b) *Working Group I*, charged with the revision of Sections C and D of the Classification (Chemistry) ;
- (c) *Working Group II*, charged with the revision of Sections G and H of the Classification (Electricity and Physics) ;
- (d) *Working Group III*, charged with the revision of Section B of the Classification (Mechanics) ;
- (e) *Working Group IV*, charged with the revision of Sections A, E and F of the Classification (Other Technologies) ;
- (f) *Working Group V*, charged with the supervision of the uniform application of the Classification.

41. Each of these bodies held several sessions in the course of 1969 and 1970.

#### *Establishment of the Draft Agreement Concerning the International Patent Classification*

##### *Third Session of the Joint ad hoc Committee*

42. Following the acceptance of the Governing Principles referred to in paragraphs 33 to 39 above, the Secretariat General of the Council of Europe and BIRPI established a first Draft Agree-

<sup>1</sup> See document CEP/V/19, paragraph 48, of September 26, 1969.

ment concerning the International Patent Classification, which was submitted, in accordance with the decision referred to in paragraphs 38 and 39 above, to the Third Session of the Joint ad hoc Committee of the Council of Europe and BIRPI, held in Paris from April 7 to 10, 1970.

43. The Joint ad hoc Committee, at its said session, examined and expressed its agreement with the first Draft Agreement submitted to it, however with some observations.

44. Subsequently, in the light of the observations made by the Joint ad hoc Committee, the Secretariat General of the Council of Europe and the International Bureau of WIPO modified the first draft and established the Draft Agreement proposed in this document.

#### PART IV

### **Brief Analysis of the Principles Governing the Proposals for the Revision of the European Convention to be Submitted to the Strasbourg Conference of 1971**

#### *Main Features of the Proposed New Agreement*

45. The Draft Agreement draws its inspiration from the provisions of :

- (a) the European Convention on the International Classification of Patents for Invention of December 19, 1954 ;
- (b) the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (hereinafter referred to as "the Nice Agreement"), as revised in respect of the administrative and financial provisions and the final clauses at the Diplomatic Conference of Stockholm, in 1967 ;
- (c) the Locarno Agreement Establishing an International Classification for Industrial Designs (hereinafter referred to as "the Locarno Agreement").

46. The Draft Agreement is entitled "Agreement Concerning the International Patent Classification."

47. In the preamble to the Draft Agreement, tribute is paid to the work carried out by the Council of Europe pursuant to the provisions of the European Convention.

48. In particular, the Draft Agreement establishes a Special Union within the framework of the Paris Union. This means that the countries which ratify or accede to the Agreement become members of the Union Concerning the International Patent Classification, the Union being the administrative body which is responsible for providing the budget and administration of the Classification and for its development.

49. As regards the Classification, the Draft Agreement :

- (i) adopts a single classification of patents for invention, inventors' certificates, utility models and utility certificates ;
- (ii) defines the Classification ;
- (iii) provides for the amendment of the Classification.

50. The Draft Agreement defines the Classification as being the existing classification established pursuant to the provisions of the European Convention, which came into force and was published

by the Secretary General of the Council of Europe on September 1, 1968, subject to the amendments and additions that may be made to it prior to the entry into force of the Agreement or thereafter.

51. It is proposed in the Draft Agreement that the Classification should not form an integral part of the Agreement so as to avoid the necessity for countries party to the Agreement to be obliged to publish the text of the entire Classification in their official collections of Laws and Treaties.

52. The Draft Agreement provides for the following legal scope and use of the Classification :

- (i) the Classification would be solely of an administrative character, but each country would have the right to attribute to it the legal scope that it considered appropriate ;
- (ii) each country would reserve the right to use the Classification either as a principal or as a subsidiary system ;
- (iii) the symbols of the Classification would be included in the official documents and notices defined by the Agreement concerning patents, inventors' certificates, utility models and utility certificates ;
- (iv) countries not having a system of examination as to patentability, whether immediate or deferred, and countries where the procedure for the grant of patents does not include a search into the state of the art would have the right to make a reservation as regards applying the symbols of the complete elaboration of the Classification. The same principle would apply, *mutatis mutandis*, to other kinds of protection such as inventor's certificates, utility models and utility certificates.

53. The Draft Agreement establishes a Committee of Experts entrusted with the revision of the Classification and the promotion of its uniform application. Each member country of the Special Union would be represented on the Committee of Experts. For a transitional period of two years from the entry into force of the Special Agreement, countries party to the European Convention, not yet members of the Special Union, would have the same rights in the Committee of Experts as if they were members of the Special Union. Thereafter, for a period of three years, they would have the right to be represented by observers. After the entry into force of the Agreement, the Council of Europe would also have the right to be represented by observers, as would certain intergovernmental organizations specialized in the patent field.

54. As regards the adoption of amendments and additions to the Classification by the Committee of Experts, the Draft Agreement provides that amendments and additions which give rise to a modification in the basic structure of the Classification or which entail a substantial work of reclassification require a majority of three-fourths of the countries represented for their adoption. Whether or not an amendment or addition falls under this rule may be decided by one-fifth of the countries represented.

55. The administrative provisions of the Draft Agreement are based on the administrative provisions of the Stockholm Acts of the Paris Convention and its existing Special Agreements. These provisions provide for the establishment of an Assembly of the Special Union. In that Assembly, countries party to the European Convention, not yet party to the Agreement, and the Council of Europe, would, during a transitional period of five years, be represented by observers without the right to vote. As to the finances of the Special Union, the said Special Union would have its own budget.

56. Any country party to the Paris Convention will have the right to ratify the Agreement or to accede to it.

57. So as to obtain a balance between the countries formerly party to the European Convention and the other countries party to the Paris Convention, it is proposed that the Agreement will enter into force one year after instruments of ratification or accession have been deposited by :

- (i) two-thirds of the countries party, at the date of signature of the Agreement, to the European Convention, and



- (ii) at least three countries party to the Paris Convention, not previously party to the European Convention, and of which at least one is a country where, according to the latest available statistics, more than 40,000 applications for patents or inventors' certificates are filed per year.

58. The provisions of the Draft Agreement relating to its entry into force are designed to prevent countries from being simultaneously party to the European Convention and to the Agreement. To that end, the Draft Agreement provides that countries party to the European Convention which ratify the Agreement or accede to it would be obliged to denounce that Convention with effect, at the latest, from the day on which the Agreement enters into force with respect to those countries.

59. Provision is made for the future revision of the Agreement. Revisions, except when they concern the administrative provisions of the Agreement, will be adopted at Diplomatic Conferences of the kind held for the revision of other Conventions and Agreements administered by the World Intellectual Property Organization. Future Acts of the Agreement will be deposited with the Director General of that Organization.

60. The Agreement will be deposited with the Secretary General of the Council of Europe. The Director General of the World Intellectual Property Organization will be responsible for notifications under the Agreement.

## PART V

**Text of the Proposed Agreement and Commentary****STRASBOURG AGREEMENT CONCERNING THE INTERNATIONAL PATENT  
CLASSIFICATION****The Contracting Parties,**

Considering that the universal adoption of a uniform system of classification of patents, inventors' certificates, utility models and utility certificates is in the general interest and is likely to establish closer international cooperation in the industrial property field, and to contribute to the harmonization of national legislation in that field,

Recognizing the importance of the European Convention on the International Classification of Patents for Invention, of December 19, 1954, under which the Council of Europe created the International Classification of Patents for Invention,

Having regard to the universal value of the said Classification, and to its importance to all countries party to the Paris Convention for the Protection of Industrial Property,

Having regard to Article 19 of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967,

Agree as follows :

### COMMENTARY ON ARTICLE 1

61. This Article is based on similar provisions in Article 1(1) and (2) of the Nice and Locarno Agreements. It provides for the establishment, by the contracting countries, of a Special Union, which will be a Special Union within the framework of the Paris Convention, set up in accordance with Article 19 of the Stockholm Act of that Convention ; the Article further provides for the adoption by the contracting countries of a single classification of patents for invention, inventors' certificates, utility models and utility certificates.

62. Inventors' certificates, utility models and utility certificates are expressly mentioned since, in view of the number of countries having those particular kinds of protection and the amount of technical information contained in the relevant documents, they form an important part of the documentation to be used for the examination of inventions.

63. For reasons of clarity, the scope of Article 1 has been reduced compared with Article 1 of the Nice and Locarno Agreements. The subject matter of Article 1 of the Nice and Locarno Agreements has in this Draft been divided between Articles 1 to 3.

### COMMENTARY ON ARTICLE 2

64. This Article is based on similar provisions in Article 1(1) of the European Convention and in Article 1(3) and (4) of the Nice and Locarno Agreements. The single Classification is defined in paragraph (1) as the Classification established pursuant to the provisions of the European Convention. The Agreement thus declares that the contracting countries adopt an already existing classification subject to the amendments and additions that may be made to it prior to the entry into force of the Agreement or thereafter. Article 5 of the Agreement provides for the necessary machinery within the Union for later revisions of the Classification. The review of the existing Classification with a view either to its adoption or its revisions involves a great amount of highly technical work, and it would be difficult for a Diplomatic Conference to accomplish such a task.

65. The Guide to the Classification and the notes included in the text of the Classification form an integral part thereof. The term "notes" (paragraph (1)(b)) should be given a broad interpretation ; it includes not only the "Explanatory Notes" but all other notes found in the text of the Classification.

66. It should be noted that the Catchword Indexes in English, French and German, elaborated so as to facilitate the use of the Classification, do not constitute an integral part of the Classification. Nevertheless, these indexes will be kept up to date.

**ARTICLE 1****ESTABLISHMENT OF A SPECIAL UNION ;  
ADOPTION OF AN INTERNATIONAL CLASSIFICATION**

The countries to which this Agreement applies constitute a Special Union and adopt a single classification for patents for invention, inventors' certificates, utility models and utility certificates, to be known as "the International Patent Classification" (hereinafter designated as "the Classification").

**ARTICLE 2****DEFINITION OF THE CLASSIFICATION**

(1)(a) The Classification comprises :

- (i) the text established pursuant to the provisions of the European Convention on the International Classification of Patents for Invention of December 19, 1954 (hereinafter designated as "the European Convention"), which Classification came into force and was published by the Secretary General of the Council of Europe on September 1, 1968 ;
- (ii) the amendments and additions which have entered into force pursuant to Article 2(2) of the European Convention prior to the entry into force of this Agreement ;
- (iii) the amendments and additions made thereafter in accordance with Article 5 which have entered into force pursuant to the provisions of Article 6.

(b) The Guide and the notes included in the text of the Classification are an integral part thereof.

67. In order that the countries party to the Agreement will not be obliged to publish the text of the entire Classification in their collections of Laws and Treaties, it is proposed that the Classification should not be annexed to the Agreement so that it would form an integral part thereof. Instead, it is envisaged that the text of the Classification should be deposited in two authentic copies, at the time that the Agreement is opened to signature, with the Secretary General of the Council of Europe and with the Director General of the World Intellectual Property Organization. Amendments and additions to the Classification shall be deposited in accordance with the same procedure. It is proposed (Article 16(3)(b)) that certified copies of the Classification should be made available to the Government of any country that signs the Agreement or accedes to it, in English or in French, at the option of that Government.

### COMMENTARY ON ARTICLE 3

68. This Article is based on similar provisions in Article 1(6) of the Nice Agreement and Article 1(7) of the Locarno Agreement.

69. Paragraph (1) provides for the establishment of the Classification in English and in French, both texts being equally authentic. It should be noted that such texts have already been established: English and French texts of the Classification came into force and were published by the Secretary General of the Council of Europe on September 1, 1968.

70. Paragraph (2) relating to the establishment of official texts in other languages is in harmony with the results of the Stockholm Conference and with the practice followed in other Unions administered by the International Bureau.

(2)(a) The text referred to in paragraph (1)(a)(i) is contained in two authentic copies in the English and French languages deposited respectively, at the time that this Agreement is opened to signature, with the Secretary General of the Council of Europe and with the Director General of the World Intellectual Property Organization (hereinafter respectively designated "Director General" and "Organization") established by the Convention of July 14, 1967.

(b) The amendments and additions referred to in paragraph (1)(a)(ii) shall also be deposited in accordance with the same procedure with the Secretary General of the Council of Europe and the Director General of the Organization.

(c) The amendments and additions referred to in paragraph (1)(a)(iii) shall be deposited in one authentic copy only, in the English and French languages, with the Director General of the Organization.

### ARTICLE 3

#### LANGUAGES OF THE CLASSIFICATION

(1) The Classification shall be established in the English and French languages, both texts being equally authentic.

(2) Official texts of the Classification, in such other languages as the Assembly referred to in Article 7 may designate, shall be established by the International Bureau of the Organization (hereinafter designated as the "International Bureau"), after consultation with the interested Governments.

## COMMENTARY ON ARTICLE 4

71. This Article is based on similar provisions in Articles 1(2) and 3 of the European Convention and in Article 2 of the Nice and Locarno Agreements. Paragraphs (1) and (2) reproduce, almost verbatim, the provisions of Article 2, paragraphs (1) and (2), of the Locarno Agreement.

72. Paragraph (1) lays down the principle that the Classification has no effect other than that attributed to it by each country. This means, for example, that the Classification would not bind the contracting countries as regards the evaluation of the extent of the protection afforded to the patent, inventor's certificate or other kind of protection. It might seem preferable to invert the order of the last two sentences of this paragraph ; however, it is suggested that the draft text be left unchanged as it corresponds to the text contained in both the Nice Agreement and the Locarno Agreement.

73. Under the terms of paragraph (2), countries having a national classification system for patents, inventors' certificates or other kinds of protection would be authorized to continue to use such a system so long as, in conjunction with it, they apply the Classification as either a principal or a subsidiary system.

74. Paragraph (3), based on Article 3(1) of the European Convention and Article 2(3) of the Nice and Locarno Agreements, sets forth the essential obligation devolving upon the national Administrations by virtue of the Agreement, namely : to include, in patents, inventors' certificates, utility models and utility certificates issued and in applications relating thereto published by them, as well as in notices relating to the publication of those documents appearing in official periodicals, the complete symbols of the Classification applied to the invention. In this connection, it may be pointed out that, in the event of modification of the Classification, the national Administrations would not be obliged to republish, with an indication of the new symbols, documents previously published with the old symbols.

75. Paragraph (4) reproduces the principle laid down by Article 3(2) of the European Convention according to which countries that do not examine the novelty of inventions are free from the obligation to include the symbols relating to the groups and subgroups of the Classification in the documents and notices referred to in paragraph (3). This reservation is open neither to countries having an examination as to patentability, whether immediate or deferred, nor to those countries where the procedure for grant of patents includes a search into the state of the art. The same principle applies, *mutatis mutandis*, to other kinds of protection such as inventors' certificates, utility models and utility certificates. If, in a particular country, the systems mentioned above apply only to some kinds of protection or to a certain field of technology, the reservation provided for in paragraph (4) should be open only to the other kinds of protection or to the other fields of technology. The reason for allowing this reservation is that countries which neither have a system for examination of the patentability of inventions nor provide for a search into the state of the art do not have the technically qualified staff which they would need if they were to be obliged to carry out detailed classification of patents and similar documents.

76. Paragraph (5) reproduces the provision of Article 3(3) of the European Convention. It is not proposed that an abbreviation should be specified in the Agreement itself, because it may be desirable to change the present accepted abbreviation (Int. Cl.) so as to permit its adaptation to the requirements of mechanized searching without the need to revise the Agreement. It seems, in fact, more appropriate to entrust this task to a Committee of Experts rather than to Diplomatic Conferences of Revision. It should be noted that the provisions of paragraph (5) do not apply to periodicals.

**ARTICLE 4****LEGAL SCOPE AND USE OF THE CLASSIFICATION**

(1) Subject to the requirements prescribed by this Agreement, the Classification shall be solely of an administrative character. Nevertheless, each country shall have the right to attribute to it the legal scope which it considers appropriate. In particular, the Classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded in those countries.

(2) Each country of the Special Union shall have the right to use the Classification either as a principal or as a subsidiary system.

(3) The competent authorities of the countries of the Special Union shall include in

- (i) patents, inventors' certificates, utility models and utility certificates issued and in applications relating thereto published by them, and in
- (ii) notices, appearing in official periodicals, of the publication of the documents referred to in subparagraph (i)

the complete symbols of the Classification applied to the invention to which the document in subparagraph (i) relates.

(4) Any country which does not proceed to an examination as to novelty, whether immediate or deferred, and in which the procedure for the grant of patents or other kinds of protection does not provide for a search into the state of the art, may, when signing this Agreement or when depositing its instruments of ratification or accession, declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in the documents and notices referred to in paragraph (3). If these conditions only exist in relation to certain kinds of protection or certain fields of technology, the country in question may only make this reservation to the extent the conditions apply.

(5) The symbols of the Classification, preceded by the words: "International Patent Classification," or an abbreviation thereof to be determined by the Committee of Experts referred to in Article 5, shall be printed in heavy type, or in such a manner that they are clearly visible, in the heading of each document referred to in paragraph (3)(i) in which they are to be included.



**COMMENTARY ON ARTICLE 5**

77. This Article, based on similar provisions in Article 2 of the European Convention, and in Article 3 of the Nice and Locarno Agreements, concerns the Committee of Experts set up by the Special Agreement.

78. Paragraph (1) provides that each country of the Special Union will be represented on the Committee of Experts. However, the Draft Agreement provides, in Article 17, that, during a transitional period of two years following the entry into force of the Agreement, countries party to the European Convention, but not yet members of the Special Union, may enjoy, if they so wish, the same rights in the Committee of Experts as if they were members of the Special Union. Thereafter, for a further period of three years, they may be represented by observers in the meetings of the Committee of Experts and, if the said Committee so decides, in those of the subcommittees and working groups established by it. Furthermore, during the same period, they may submit proposals for amendments and additions to the Classification.

79. In paragraph (2), it is proposed that, in view of its achievements in establishing and administering the Classification, the Council of Europe, as of right, may be represented by an observer in the meetings of the Committee of Experts. Secondly, it is proposed that intergovernmental organizations specialized in the patent field and of which at least one of the member countries is party to the Agreement, shall be invited to be represented by observers. This provision will apply to organizations such as the International Patent Institute, the African and Malagasy Industrial Property Office, the future European Patent Office, and other regional patent offices that may be established in the future. The Committee will decide what other, if any, intergovernmental and international non-governmental organization it wishes to invite to be represented by observers at such meetings.

80. Paragraph (4) defines the tasks of the Committee of Experts. The Committee is entrusted with the preparation and adoption of revisions of the Classification, with facilitating its use and with promoting its uniform application. It is also charged with assisting in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions by disseminating the results of reclassification to the countries of the Special Union and by distributing the work to be done in this field among those countries.

81. The Committee of Experts clearly has the right to establish subcommittees and working groups. However, it does not seem necessary to mention this in the Agreement.

82. Paragraph (5), which is based on Article 3(2) of the Nice Agreement and Article 3(3) of the Locarno Agreement, deals with proposals for amendments or additions to the Classification. Apart from the competent authorities of the countries of the Special Union, the International Bureau, and the Council of Europe, the intergovernmental organizations specialized in the patent field shall have the right to propose amendments and additions to the Classification without prior invitation by the Committee of Experts to that effect. The Committee of Experts shall be free to take any decision it chooses with regard to proposals made in accordance with paragraph (5) and to modify and adopt them as it thinks fit. On the other hand, any new proposal initiated by the Committee itself should be subject to the procedure laid down by paragraph (5). It is suggested that these questions could be regulated by the rules of procedure adopted by the Committee.

83. Paragraph (6) lays down the different majorities required for the adoption of :

- (i) decisions which are regarded by one-fifth of the countries represented as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification (majority of three-fourths, under paragraph (6)(b)) ;
- (ii) other decisions of the Committee (simple majority of the countries represented, under paragraph (6)(a)).

**ARTICLE 5****COMMITTEE OF EXPERTS**

(1) A Committee of Experts shall be set up in which each country of the Special Union shall be represented.

(2)(a) The Secretary General of the Council of Europe may be represented by an observer in the meetings of the Committee of Experts.

(b) Intergovernmental organizations specialized in the patent field and of which at least one of the member countries is Party to this Agreement shall be invited by the Committee of Experts to be represented at its meetings by observers.

(c) Other intergovernmental and international non-governmental organizations may be invited by the Committee of Experts to be represented by observers at its meetings in the circumstances to be determined by it.

(d) The Committee of Experts decides the extent to which the observers may participate in the meetings of the subcommittees or working groups established by it.

(3) The Committee of Experts shall adopt its own Rules of Procedure.

(4) The Committee of Experts shall :

(a) amend and add to the Classification ;

(b) address recommendations to the countries of the Special Union with the purpose of facilitating the use of the Classification, and to promote its uniform application ;

(c) assist in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions.

(5) Proposals for amendments or additions to the Classification may be made by the competent authority of any country of the Special Union, by the International Bureau, by the Secretary General of the Council of Europe, or by any organization represented in the Committee of Experts pursuant to paragraph (2)(b) and by any other organization specially invited to submit such proposals by the Committee of Experts. The proposals shall be communicated to the International Bureau which shall submit them to the members of the Committee of Experts and to the observers not later than two months before the session of the Committee at which the said proposals are to be considered.

(6)(a) The decisions of the Committee of Experts shall require a simple majority of the countries represented.

84. As concerns the majority required within the Committee of Experts for making a decision giving rise to a modification in the basic structure of the Classification or entailing a substantial work of reclassification (paragraph (6)(b)), the proposed provision reflects an important proviso laid down in 1968 in the Conclusions concerning the revision of the European Convention reproduced in paragraph 31, above. The proviso was the following : "Proposals for revision . . . should not impair the classification system as worked out over fifteen years, i.e. the basic structure of the Classification should not be altered."

85. No special provision has been found necessary concerning the travelling and subsistence expenses of the experts participating in the meetings of the Committee of Experts. It is understood that these expenses shall be borne by their respective Governments (*see*, by analogy, Article 7(1)(d) relating to the Assembly).

#### COMMENTARY ON ARTICLE 6

86. This Article is based on similar provisions in Articles 2(2) and 7(1) of the European Convention and in Article 4 of the Nice and Locarno Agreements.

87. Paragraph (1) provides that all decisions of the Committee of Experts, notified by the International Bureau to the Administrations of the countries of the Special Union, will enter into force six months from the date of dispatch of the notification. The reason for the delay is to give the countries time to adapt their documentation and classification manuals to the new system so that by the time the amendments or additions enter into force they will be ready to apply them.

88. Paragraph (2), corresponding to Article 4(2) of the Nice and Locarno Agreements, entrusts the International Bureau with the task of keeping the Classification up to date by incorporating amendments and additions in it as soon as they enter into force and by publishing them in those of its periodicals designated by the Assembly of the Special Union.

(b) Any decision which is regarded by one-fifth of the countries represented as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification shall require a majority of three-fourths of the countries represented.

## ARTICLE 6

### NOTIFICATION, ENTRY INTO FORCE, AND PUBLICATION, OF AMENDMENTS AND ADDITIONS, AND OTHER DECISIONS

(1) Every decision of the Committee of Experts concerning the adoption of amendments or additions to the Classification and recommendations of the Committee shall be notified by the International Bureau to the competent authorities of the countries of the Special Union. The decisions shall come into force six months from the date of dispatch of the notification.

(2) The International Bureau shall incorporate in the Classification the amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in the periodicals designated by the Assembly referred to in Article 7.

**COMMENTARY ON ARTICLE 7**

89. Article 7, as proposed, is practically identical with Article 5 of the Locarno Agreement, which itself reproduces, almost verbatim, Article 5 of the Nice Agreement as revised at Stockholm.

90. There are the following differences :

(a) *from the Nice Agreement :*

firstly, there is no reference to countries of the Special Union that have not ratified the most recent Act of the Agreement, since this newly created Agreement has no Acts prior to the one to be adopted by the Conference ; secondly, it is proposed to make the Assembly competent to decide on the establishment of official texts of the Classification in languages other than English and French, according to Article 3(2) ;

(b) *from the Nice Agreement and the Locarno Agreement :*

firstly, paragraph (1)(c) provides that, in view of its achievements in establishing and administering the Classification, the Council of Europe, as of right, may be represented by observers in the meetings of the Assembly, and, if the Assembly so decides, in those of such subcommittees or working groups as may have been established by the Assembly ; secondly, paragraph (2)(a)(viii) provides that the Assembly may decide to admit other observers to take part not only in meetings of the Assembly itself but, also, in those of the subcommittees and working groups established by it ; thirdly, the draft Agreement provides, in Article 17, that during a transitional period of five years following the entry into force of the Agreement countries party to the European Convention, but not yet members of the Special Union, may be represented by observers in the meetings of the Assembly, and, if the Assembly so decides, in those of the subcommittees and working groups established by it.

**ARTICLE 7****ASSEMBLY OF THE SPECIAL UNION**

**(1)(a)** The Special Union shall have an Assembly consisting of the countries of the Special Union.

**(b)** The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

**(c)** The Secretary General of the Council of Europe may be represented by an observer in the meetings of the Assembly, and, if the Assembly so decides, in those of such subcommittees or working groups as may have been established by the Assembly.

**(d)** The expenses of each delegation shall be borne by the Government which has appointed it.

**(2)(a)** Subject to the provisions of Article 5, the Assembly shall :

- (i)** deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement ;
- (ii)** give directions to the International Bureau concerning the preparation for conferences of revision ;
- (iii)** review and approve the reports and activities of the Director General of the Organization concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union ;
- (iv)** determine the program and adopt the triennial budget of the Special Union, and approve its final accounts ;
- (v)** adopt the financial regulations of the Special Union ;
- (vi)** decide on the establishment of official texts of the Classification in other languages than English and French according to Article 3(2) ;
- (vii)** establish, in addition to the Committee of Experts set up under Article 5, such committees and working groups as it deems appropriate to achieve the objectives of the Special Union ;
- (viii)** determine, subject to paragraph (1)(c), which countries not member of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted as observers to its meetings, and to those of the subcommittees and working groups established by it ;
- (ix)** adopt amendments to Article 7 to 10 ;
- (x)** take any other appropriate action designed to further the objectives of the Special Union ;
- (xi)** perform such other functions as are appropriate under this Agreement.



(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 10(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own Rules of Procedure.



**COMMENTARY ON ARTICLE 8**

91. The provisions of Article 8 as proposed are, subject to slight, necessary amendments, the same as those of Article 6 of the Nice and Locarno Agreements.

92. By virtue of paragraph (2), the Director General shall either participate himself in the meetings mentioned in this provision or be represented by one or more staff members of the International Bureau ; further, he has the right to be assisted by staff members.

**ARTICLE 8****INTERNATIONAL BUREAU**

**(1)(a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.**

**(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other subcommittees and working groups as may have been established by the Assembly or the Committee of Experts.**

**(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.**

**(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other subcommittees or working groups as may have been established by the Assembly or the Committee of Experts. The Director General or a staff member designated by him, shall be ex officio secretary of those bodies.**

**(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 7 to 10.**

**(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.**

**(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.**

**(4) The International Bureau shall carry out any other tasks assigned to it.**

**COMMENTARY ON ARTICLE 9**

93. Article 9 as proposed is identical with Article 7 of the Nice and Locarno Agreements.

94. The expenses of the Special Union will consist primarily of the costs of holding the meetings of its organs (Assembly, Committee of Experts, etc.), employing specialized personnel to work on the Classification in the International Bureau, the publication of the Classification and its amendments and additions in the English and French texts, and the participation of the Special Union in the general expenses of the International Bureau.

95. The income of the Special Union will be derived primarily from the contributions of the member countries and from the sale of published copies of the Classification.

96. The Assembly of the Special Union will decide on the budget of that Union and on the amount of the contributions of the countries. It is estimated that the annual expenses of the Special Union will be in the region of 350,000 Swiss francs or, for example, about 14 % of the 1970 budget of the Paris Union.

**ARTICLE 9****FINANCES**

**(1)(a) The Special Union shall have a budget.**

**(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and where applicable, the sum made available to the budget of the Conference of the Organization.**

**(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.**

**(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.**

**(3) The budget of the Special Union shall be financed from the following sources :**

- (i) contributions of the countries of the Special Union ;**
- (ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union ;**
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union ;**
- (iv) gifts, bequests, and subventions ;**
- (v) rents, interests, and other miscellaneous income.**

**(4)(a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.**

**(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.**

**(c) Contributions shall become due on the first of January of each year.**

**(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any**



organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6)(a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7)(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

**COMMENTARY ON ARTICLE 10**

97. Article 10 as proposed is identical with Article 8 of the Nice and Locarno Agreements.

**COMMENTARY ON ARTICLE 11**

98. Article 11 as proposed sets forth the same principles as Article 11 of the Nice and Locarno Agreements.

**ARTICLE 10****AMENDMENT OF ARTICLES 7 TO 10**

(1) Proposals for the amendment of Articles 7, 8, 9 and of the present Article, may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 7, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

**ARTICLE 11****REVISION OF ARTICLES 1 TO 6, AND 11 TO 17**

(1) Articles 1 to 6 and 11 to 17 of this Agreement may be submitted to revision with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held among the delegates of the countries of the Special Union.



**COMMENTARY ON ARTICLE 12**

99. Article 12 is based on similar provisions in Articles 4 and 5 of the European Convention and in Article 9 of the Nice and Locarno Agreements.

100. Paragraphs (1), (2) and (4) are identical with Article 9(1), (2) and (4) of the Locarno Agreement.

101. Paragraph (3)(a) provides that the Agreement shall enter into force one year after instruments of ratification or accession have been deposited by two-thirds of the countries which, at the date that the Agreement is opened to signature, are party to the European Convention, and, also, by three countries party to the Paris Convention, not previously party to the European Convention, of which at least one is a country where more than 40,000 applications for patents or inventors' certificates are filed each year. In fact, the countries party to the European Convention do not wish to relinquish the present administrative framework of the Classification unless it is proved that the new Agreement will have enough supporters to ensure the development of the Classification.

102. The period of one year prescribed at the beginning of paragraph (3)(a), and the provisions of paragraph (3)(c), are designed to prevent countries from being simultaneously members of the European Convention and of the Agreement. Moreover, so as to avoid causing an interruption in their status of member, it could be recommended, if their instrument of ratification or accession is one of those to which paragraph (3)(a)(i) refers, that they should state that their denunciation of the European Convention will take effect one year after the deposit of the last of the instruments of ratification or accession required for the entry into force of the Agreement.

**ARTICLE 12****RATIFICATION AND ACCESSION ;  
ENTRY INTO FORCE**

(1) Any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it.

(2) Instruments of ratification and accession shall be deposited with the Director General.

(3)(a) This Agreement shall enter into force one year after instruments of ratification or accession have been deposited by :

- (i) two-thirds of the countries party, at the date that this Agreement is opened to signature, to the European Convention, and
- (ii) three countries party to the Paris Convention for the Protection of Industrial Property, which were not previously party to the European Convention and of which at least one is a country where, according to the latest statistics available at the date of its instrument of ratification or accession, more than 40,000 applications for patents or inventors' certificates are filed each year.

(b) With respect to any country other than those for which the Agreement has entered into force pursuant to subparagraph (a), the Agreement shall enter into force one year after the date on which the ratification or accession of that country has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(c) Countries party to the European Convention which ratify this Agreement or accede to it, shall be obliged to denounce the said Convention, at the latest, with effect from the day on which this Agreement enters into force with respect to those countries.

(4) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.

**COMMENTARY ON ARTICLE 13**

103. Article 13 as proposed is identical with Article 10 of the Nice and Locarno Agreements.

**COMMENTARY ON ARTICLE 14**

104. Article 14 as proposed is similar to Article 13 of the Nice Agreement and to Article 12 of the Locarno Agreement.

**COMMENTARY ON ARTICLE 15**

105. Article 15 as proposed is identical with Article 14 of the Nice Agreement and Article 13 of the Locarno Agreement.

**ARTICLE 13****FORCE AND DURATION OF THE AGREEMENT**

**This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.**

**ARTICLE 14****DENUNCIATION**

**(1) Any country may denounce this Agreement by notification addressed to the Director General. Such denunciation shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.**

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

**(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.**

**ARTICLE 15****TERRITORIES**

**The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.**

**COMMENTARY ON ARTICLE 16**

106. Article 16 as proposed is similar to Article 15 of the Nice Agreement and Article 14 of the Locarno Agreement.

107. As regards paragraph (1)(b), it is proposed that the Agreement will remain open for signature for a period of six months from the date of its adoption.

108. The Agreement shall be deposited with the Secretary General of the Council of Europe, but other depositary functions with respect to the Agreement shall be carried out by the Director General of the World Intellectual Property Organization.

109. In view of the fact that it is proposed that the Classification should not form an integral part of the Agreement, paragraph (3)(b) provides that a certified copy of the Classification should be made available to the Government of any country that signs the Agreement or accedes to it, in English or French, at the option of that Government.

**ARTICLE 16****SIGNATURE, LANGUAGES, NOTIFICATION,  
DEPOSITARY FUNCTIONS**

**(1)(a) This Agreement shall be signed in a single copy in the English and French languages, both texts being equally authentic, and shall be deposited with the Secretary General of the Council of Europe.**

**(b) This Agreement shall remain open for signature at Strasbourg until ...**

**(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.**

**(3)(a) The Director General shall transmit two copies, certified by the Secretary General of the Council of Europe, of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Governments of any other country.**

**(b) The Director General shall furnish the Government of any country that has signed this Agreement, or that accedes to it, a copy of the Classification certified by him in the English or French languages.**

**(4) The Director General shall register this Agreement with the Secretariat of the United Nations.**

**(5) The Director General shall notify the Governments of all countries of the Special Union of the date of entry into force of the Agreement, signatures, deposits of instruments of ratification or accession, acceptances of amendments to this Agreement, and the dates on which such amendments enter into force, and notifications of denunciation.**

**COMMENTARY ON ARTICLE 17**

110. The purpose of paragraph (1) is to give those countries party to the European Convention which have not yet become members of the Special Union the same rights in the Committee of Experts referred to in Article 5 as if they were members of the Special Union, for a transitional period of two years from the date of entry into force of the new Agreement.

111. During the three years following the expiration of the transitional period of two years, countries party to the European Convention, but which are not yet members of the Special Union, may be represented by observers in the meetings of the Committee of Experts (paragraph (2)), submit proposals for amendments or additions to the Classification, and be notified of the decisions and recommendations of the Committee of Experts (paragraph (2)).

112. Paragraph (3) provides that, during the five years following the entry into force of the Agreement, countries party to the European Convention, but which are not yet members of the Special Union, may be represented by observers in the meetings of the Assembly.

113. In preparatory meetings, it was proposed that the Agreement should provide that the first revision of the Classification should not take place before September 1, 1973. It does not now seem useful to include such a provision since it is very unlikely that the Agreement will enter into force before that date.

**ARTICLE 17****TRANSITIONAL PROVISIONS**

(1) During the two years following the entry into force of this Agreement, the countries party to the European Convention, but which are not yet members of the Special Union, may enjoy, if they so wish, the same rights as if they were members of the Special Union, in the Committee of Experts referred to in Article 5.

(2) During the three years following the expiration of the period referred to in paragraph (1), the countries referred to in the said paragraph may be represented by observers in the meetings of the Committee of Experts and, if the said Committee so decides, in those of the subcommittees and working groups established by it. During the same period they may submit proposals for amendments or additions to the Classification, in accordance with Article 5(5), and shall be notified of the decisions and recommendations of the Committee of Experts, in accordance with Article 6(1).

(3) During the five years following the entry into force of this Agreement, the countries which are party to the European Convention, but which are not yet members of the Special Union, may be represented by observers in the meetings of the Assembly, and if the Assembly so decides, in those of the subcommittees and working groups established by it.

IN WITNESS|WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.  
DONE at Strasbourg, on ...

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**Annex to Document IPC/DC/2**

BIRPI Document CEP/V/12 (August 1969)

**International Classification of Patents for Invention  
Use of the Classification by Member States of the Paris Union**

*Report by the Director of BIRPI*

Editor's Note: *The contents of this Report, updated and completed, are reproduced in Document IPC/DC/9 (see page 83).*



## TEXT OF DOCUMENTS

(Continued)

### IPC/DC/3 to IPC/DC/46

**IPC/DC/3** December 30, 1970 (Original : English/French)  
**SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE,**  
**WIPO**

**Draft Rules of Procedure**<sup>1</sup>

Rule 30 : Suspension or Adjournment of the Meeting  
 Rule 31 : Order of Procedural Motions  
 Rule 32 : Amendments  
 Rule 33 : Withdrawal of Motions  
 Rule 34 : Reconsideration of Proposals Adopted or Rejected

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Rule 35 : Voting Rights  
 Rule 36 : Required Majorities  
 Rule 37 : Meaning of the Expression "Member Delegations Present and Voting"  
 Rule 38 : Method of Voting  
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**Chapter IX :** Open and Closed Meetings

Rule 48 : Meetings of the Plenary and of the Main Committee  
 Rule 49 : Meetings of Other Committees and of Working Groups

**Chapter X :** Observers

Rule 50 : Observers

*Chapter I : Objective, Composition and Organs*

*Rule 1 : Objective*

(1) The objective of the Strasbourg Diplomatic Conference on the International Patent Classification, 1971 (hereinafter referred to as "the Conference"), is to negotiate and conclude, on the basis of the draft contained in document IPC/DC/2 of the Secretariat General of the Council of Europe and the World Intellectual Property Organization (WIPO), an Agreement, tentatively designated as "the Strasbourg Agreement concerning the International Patent Classification."

<sup>1</sup> These Draft Rules of Procedure are essentially the same as the provisions of the Rules of Procedure of the Stockholm Intellectual Property Conference, 1967, and, in particular, those of the Rules of Procedure of the Washington Conference on the Patent Cooperation Treaty, 1970.

(2) The Conference may also adopt final acts, protocols, recommendations and resolutions the subject matter of which is germane to the objective stated in paragraph (1) and which the circumstances may call for.

#### *Rule 2 : Composition*

(1) The Conference shall consist of the Delegations (see Rule 4) of the States members of the International (Paris) Union for the Protection of Industrial Property invited to the Conference by the Council of Europe and WIPO. Only such Delegations shall have the right to vote in the Conference. They are referred to hereinafter as "the Member Delegations."

(2) The following may participate in the discussions of the Conference as specified in these Rules :

(a) Delegations of other States invited to the Conference by the Council of Europe and WIPO, hereinafter referred to as "Observer Delegations" ;

(b) Representatives of intergovernmental organizations invited to the Conference by the Council of Europe and WIPO ;

(c) Representatives of international non-governmental organizations invited to the Conference by the Council of Europe and WIPO.

The organizations mentioned in subparagraphs (b) and (c) are referred to hereinafter as "Observer Organizations."

(3) The term "delegation" or "delegations," as hereinafter used, shall, unless otherwise expressly indicated, include both Member Delegations and Observer Delegations. It shall not include Observer Organizations.

(4) The Secretary General of the Council of Europe, as well as any other official designated by him, and the Director General of WIPO, as well as any other official designated by him, may participate in the discussions of the Conference and any body thereof and may submit in writing statements, suggestions and observations to the Conference and any body thereof.

#### *Rule 3 : Organs*

(1) The Conference shall meet in Plenary for the opening and closing of the Conference, for the adoption of the instruments referred to in Rule 1, and for the purposes specified in other provisions of these Rules or in the agenda of the Conference.

(2) The Conference shall have such Committees and Working Groups as shall be established in accordance with these Rules.

(3) The Conference shall appoint a Rapporteur General, on the joint proposal of the Secretary General of the Council of Europe and of the Director General of WIPO.

(4) The Conference shall have a Secretariat provided by the Council of Europe and WIPO, which shall be under the authority of a Secretary General designed by the Conference on the joint proposal of the Secretary General of the Council of Europe and of the Director General of WIPO.

### *Chapter II : Representation*

#### *Rule 4 : Representation of Governments*

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

(2) The term "delegate" or "delegates," as hereinafter used, shall, unless otherwise expressly indicated, include both member delegates and observer delegates. It shall not include representatives of Observer Organizations.

(3) Each alternate or advisor may act as delegate upon designation by the Head of his Delegation.

#### *Rule 5 : Representation of Observer Organizations*

Each Observer Organization may be represented by not more than three representatives.

#### *Rule 6 : Credentials and Full Powers*

(1) Each Member Delegation shall present credentials and full powers.

(2) Credentials and full powers shall be required for signing the Agreement adopted by the Conference.

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

#### *Rule 7 : Letters of Appointment*

(1) Each Observer Delegation shall present a letter or other document appointing the delegate or delegates as well as any alternate and any advisor. Such document or letter shall be signed as provided in Rule 6(3) or by the Head of a Diplomatic Mission of the State concerned.

(2) The representatives of Observer Organizations shall present a letter or other document appointing them.

#### *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 not later than at the time of the opening of the meeting of the Credentials Committee referred to in Rules 10 and 11.

#### *Rule 9 : Provisional Participation*

Pending a decision upon their credentials, letters or other documents of appointment, delegations and representatives shall be entitled to participate provisionally in the Conference.

#### *Rule 10 : Examination of Credentials, etc.*

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

(2) The final decision on the said credentials and powers, letters or other documents shall be within the competence of the Plenary. Such decision shall be made as soon as possible and in any case not later than the vote on the adoption of the Agreement referred to in Rule 1.

### *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 12 members elected by the Plenary from among the Member Delegations.

(3) The officers of the Credentials Committee (*see* Rule 16) shall be elected from among its members by the Plenary.

#### *Rule 12: Main Committee*

(1) The Conference shall have a Main Committee, which shall establish draft texts and submit them to the Plenary.

(2) Each Member Delegation shall be a member of the Main Committee.

#### *Rule 13: Drafting Committee*

(1) The Main Committee shall have a Drafting Committee, the members of which shall be elected by the Plenary from among the Member Delegations.

(2) The officers of the Drafting Committee (*see* Rule 16) shall be elected from among its members by the Plenary.

#### *Rule 14: Working Groups*

(1) Each Committee may establish such Working Groups as it deems useful.

(2) The members of each Working Group shall be elected by the Committee which has established it.

(3) Each Working Group shall elect a Chairman and one or two Vice-Chairmen from among its members.

#### *Rule 15: Steering Committee*

(1) The Steering Committee shall consist of the President and Vice-Presidents of the Conference and the Chairmen of the Credentials Committee and of the Drafting Committee.

(2) The Steering Committee shall meet from time to time to review the progress of the Conference and to make recommendations for furthering such progress.

(3) Coordination of the meetings of all Committees and Working Groups, including the organization of any joint meeting, shall be decided by the Steering Committee.

### *Chapter IV: Officers*

#### *Rule 16: Officers*

(1) The Plenary shall, in its first meeting, elect the President of the Conference and the six Vice-Presidents of the Conference.

(2) The President and Vice-Presidents so elected shall also act as Chairman and Vice-Chairmen, respectively, of the Plenary, of the Main Committee and of the Steering Committee.

(3) The Credentials Committee and the Drafting Committee shall each have one Chairman and two Vice-Chairmen.

(4) Precedence among Vice-Chairmen depends on the place occupied by the name of the State of each of them in the list of participating States established in the French alphabetical order.

#### *Rule 17: Acting Chairmen*

(1) Subject to the provisions of Rule 18, any meetings of bodies whose Chairmen are absent therefrom shall be presided over by the following as Acting Chairmen:

(i) where one Vice-Chairman is present, by that Vice-Chairman;

(ii) where several Vice-Chairmen are present, by that Vice-Chairman who, among the Vice-Chairmen present, has precedence over the others.

(2) If both the Chairman and the Vice-Chairmen are absent from any meeting, an Acting Chairman shall be elected by the body concerned.

#### *Rule 18: Replacement of Chairmen*

If any Chairman is unable to continue to perform his functions, a new Chairman shall be elected.

#### *Rule 19: Chairmen Not Entitled to Vote*

No Chairman or Acting Chairman shall vote. Another member of his Delegation may vote for his State.

### *Chapter V: Secretariat*

#### *Rule 20: Secretariat*

(1) The Secretary General of the Conference shall, from among the staff placed at the disposal of the Conference by the Secretary General of the Council of Europe and the Director General of WIPO, and on the joint proposal of the latter, designate a Secretary for each Committee and Working Group.

(2) The Secretary General of the Conference shall direct the staff of the Secretariat placed at the disposal of the Conference.

(3) The Secretariat shall provide for the receiving, translation, reproduction and distribution of documents, the interpretation of oral interventions, the preparation and circulation of the summary minutes (*see* Rule 46), and the general performance of all other Conference work required.

(4) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all Conference documents and the distribution of the final documents of the Conference to the participating Governments.

### *Chapter VI: Conduct of Business*

#### *Rule 21: Quorum*

(1) A quorum shall be required in the Plenary and shall be constituted by a majority of the Member Delegations participating in the Conference.

(2) A quorum shall not be required in the meetings of Committees and Working Groups.

#### *Rule 22: General Powers of the Chairman*

In addition to exercising the powers conferred upon him elsewhere by these Rules, the Chairman 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 of Procedure, shall have complete control of the proceedings and over the maintenance of order therein. The Chairman may propose the limiting of time to be allowed to speakers, the limiting of the number of times each delegation may speak on any question, the closing of the list of speakers, or the closing of the debate. He may also propose the suspension or the adjournment of the debate on the question under discussion.

*Rule 23 : Speeches*

No person may speak without having previously obtained the permission of the Chairman. Subject to Rules 24 and 25, the Chairman shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall be responsible for drawing up a list of such speakers. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

*Rule 24 : Precedence*

The Chairman of a Committee or Working Group may be accorded precedence for the purpose of explaining the conclusions arrived at by his Committee or Working Group.

*Rule 25 : Points of Order*

During the discussion of any matter, any Member Delegation may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with these Rules of Procedure. Any Member Delegation may appeal against the ruling of the Chairman. The appeal shall be immediately put to the vote and the Chairman's ruling shall stand unless overruled by a majority of the Member Delegations present and voting. A Member Delegation rising to a point of order may not speak on the substance of the matter under discussion.

*Rule 26 : Time Limit on Speeches*

Any meeting may limit the time to be allowed to each speaker and the number of times each delegation or representative of an Observer Organization may speak on any question. When the debate is limited and a delegation or Observer Organization has used up its allotted time, the Chairman shall call it to order without delay.

*Rule 27 : Closing of List of Speakers*

During the discussion of any matter, the Chairman may announce the list of speakers and, with the consent of the meeting, declare the list closed. He may, however, accord the right of reply to any delegation if a speech delivered after he has declared the list closed makes it desirable.

*Rule 28 : Adjournment of Debate*

During the discussion of any matter, any Member Delegation may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, one Member Delegation may speak in favor of the motion, and two against, after which the motion shall immediately be put to the vote. The Chairman may limit the time to be allowed to speakers under this Rule.

*Rule 29 : Closure of Debate*

Any Member Delegation may at any time move the closure of the debate on the question under discussion, whether or not any other delegation has signified its wish to speak. Permission to speak on the motion for closure

of the debate shall be accorded only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the motion shall immediately be put to the vote. If the meeting is in favor of closure, the Chairman shall declare the debate closed. The Chairman may limit the time to be allowed to Member Delegations under this Rule.

*Rule 30 : Suspension or Adjournment of the Meeting*

During the discussion of any matter, any Member Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote. The Chairman may limit the time to be allowed to the speaker moving the suspension or adjournment.

*Rule 31 : Order of Procedural Motions*

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

- (a) to suspend the meeting,
- (b) to adjourn the meeting,
- (c) to adjourn the debate on the question under discussion,
- (d) to close the debate on the question under discussion.

*Rule 32 : Amendments*

Proposals for amending the Drafts contained in document IPC/DC/2 may be made by the Member Delegations and shall, as a rule, be submitted in writing and handed to the Secretary General of the Conference or the person designated by him. The Secretariat shall distribute copies to the participants represented within the body concerned. As a general rule, no proposal shall be discussed or put to the vote in any meeting unless copies of it have been made available not later than 5 p.m. on the day before that meeting. The Chairman may, however, permit the discussion and consideration of proposals even though copies have not been distributed, or have been made available only on the day they are considered.

*Rule 33 : Withdrawal of Motions*

A motion may be withdrawn by the Member Delegation which has proposed it at any time before voting on it has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by any Member Delegation.

*Rule 34 : Reconsideration of Proposals Adopted or Rejected*

When a proposal has been adopted or rejected, it may not be reconsidered unless so decided by a two-thirds majority of the Member Delegations present and voting. Permission to speak on the motion to reconsider shall be accorded only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the question of reconsideration shall immediately be put to the vote.

*Chapter VII : Voting*

*Rule 35 : Voting Rights*

Each Member Delegation shall have one vote in each of the bodies of which it is a member. A Member Delegation may represent and vote for its own Government only.

*Rule 36: Required Majorities*

(1) Adoption of the Agreement shall require a majority of two-thirds of the Member Delegations present and voting in the final vote in the Plenary.

(2) Any other decisions by the Plenary and all decisions in the Committees or Working Groups shall, subject to Rule 34, require a majority of the Member Delegations present and voting.

*Rule 37: Meaning of the Expression "Member Delegations Present and Voting"*

For the purpose of these Rules, the expression "Member Delegations present and voting" means Member Delegations present and casting an affirmative or negative vote. Member Delegations which abstain from voting shall be considered as not voting.

*Rule 38: Method of Voting*

(1) Voting shall be by show of hands or by standing, unless any Member Delegation 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 Member Delegation whose name is drawn by lot by the Chairman.

(2) The preceding paragraph shall apply also to voting for elections, unless in a given case the body concerned decides by a simple majority, at the request of any Member Delegation, that the election shall be held by secret ballot.

(3) Only proposals or amendments proposed by a Member Delegation and seconded by at least one other Member Delegation shall be put to a vote.

*Rule 39: Conduct During Voting*

After the Chairman has announced the beginning of voting, no one shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The Chairman may permit Member Delegations to explain their votes, either before or after the voting, except once it is decided that the vote will be by secret ballot. The Chairman may limit the time to be allowed for such explanations.

*Rule 40: Division of Proposals and Amendments*

Any Member Delegation may move that parts of a proposal, or of any amendment thereto, be voted upon separately. If objection is made to the request for division, the motion for division shall be put to a vote. Permission to speak on the motion for division shall be given only to one Member Delegation in favor and two Member Delegations against. If the motion for division is carried, all parts of the proposal or of the amendment, separately approved, shall again be put to the vote, together, as a whole. If all the operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected also as a whole.

*Rule 41: Voting on Amendments*

When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, they will be put to a vote in the order in which their substance is removed from the proposal, the furthest removed being put to a vote first and the least far removed being put to a vote last. If, however, the adoption of any amendment necessarily

implies the rejection of any other amendment or of the original proposal, such amendment and proposal shall not be put to a vote. If one or more amendments are adopted, the proposal as amended shall be put to a vote. A motion is considered an amendment to a proposal even if it merely adds to, deletes from, or revises part of, that proposal.

*Rule 42: Voting on Proposals*

If two or more proposals relate to the same question, the body concerned shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted.

*Rule 43: Elections on the Basis of Proposals Made by the President of the Conference*

The President of the Conference may propose a list of candidates for all positions to which election is to be voted upon by the Plenary.

*Rule 44: Equally Divided Votes*

(1) If a vote is equally divided on matters other than elections of officers, the proposal or amendment shall be regarded as rejected.

(2) If a vote is equally divided on a proposal for election of officers, the vote shall be repeated until one of the candidates receives more votes than any of the others.

*Chapter VIII: Languages and Summary Minutes**Rule 45: Languages of Oral Interventions*

(1) Subject to paragraphs (2) and (3), oral interventions shall be in either English, French, Russian or Spanish, and interpretation shall be provided for by the Secretariat in the other three languages.

(2) Oral interventions in the Credentials Committee, the Drafting Committee, and any Working Group, may, for technical reasons, be required to be made either in English or in French, interpretation into the other language being provided for by the Secretariat.

(3) Any Member Delegation may make oral interventions in another language, provided its own interpreter simultaneously interprets the intervention in English or French. In such a case, the Secretariat shall provide for interpretation from English or French into the other three languages referred to in paragraph (1), or the other language referred to in paragraph (2), as the case may be.

*Rule 46: Summary Minutes*

(1) Provisional summary minutes shall be drawn up by the Secretariat and shall be made available as soon as possible to all participants, who shall inform the Secretariat within three days of any suggestions for changes in the summary of their own interventions. In the case of provisional summary minutes made available during or after the last four days of the Conference, such suggestions shall be communicated to WIPO within two months from the making available of the provisional summary minutes.

(2) The final summary minutes shall be published in due course by the Council of Europe and WIPO.

*Rule 47: Languages of Documents and Summary Minutes*

(1)(a) Proposals and amendments shall be filed in English or French.

(b) The Secretariat shall distribute such proposals and amendments in English and French.

(2) Observer Delegations and Observer Organizations may file observations germane to the questions under discussion in English or French or both. The Secretariat shall, whenever possible, distribute such observations in the language or languages in which they were filed.

(3) Subject to paragraph (4), all other documents shall be distributed in English and French.

(4)(a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English or French; if the speaker has used another language, his intervention shall be summarized in English or French.

(b) The final summary minutes shall be made available in English and French.

#### *Chapter IX: Open and Closed Meetings*

##### *Rule 48: Meetings of the Plenary and of the Main Committee*

The meetings of the Plenary and of the Main Committee shall be open unless the body concerned decides otherwise and in so far as there are seats available.

##### *Rule 49: Meetings of Other Committees and of Working Groups*

Meetings of other Committees and of Working Groups shall be closed.

#### *Chapter X: Observers*

##### *Rule 50: Observers*

(1) Observer Delegations and representatives of Observer Organizations may attend the meetings of the Plenary and of the Main Committee.

(2) They may, upon invitation by the Chairman, make oral statements.

#### **IPC/DC/4**

January 15, 1971 (Original: Indicated in Each Case)

ARGENTINA, GERMANY (FEDERAL REPUBLIC), NORWAY, UNITED KINGDOM, UNITED STATES OF AMERICA, INTERNATIONAL PATENT INSTITUTE, INTERNATIONAL CHAMBER OF COMMERCE

#### **Observations on the Draft Strasbourg Agreement Concerning the International Patent Classification**

##### ARGENTINA

The Permanent Mission of the Argentine Republic to the International Organizations in Geneva [...] wishes to inform the Organization that, in principle, the draft submitted to national Governments for information does not give rise to any objections, in view of the fact that it respects national competence in the field of patents as regards both form and content, and admits of the gradual introduction of the system including its use as a subsidiary classification.

With regard to matters of detail, it has been mentioned in the past and is again pointed out here that the Spanish language, being an official language, should be used in the text of the Convention and also in that of the Classification. This observation is made notwithstanding the fact that Articles 3 and 16 provide that the Assembly may authorize official texts in other languages.

(Original: Spanish)

#### GERMANY (FEDERAL REPUBLIC)

The Government of the Federal Republic of Germany highly welcomes the plan to give the International Patent Classification, established within the framework of the Council of Europe pursuant to the European Convention on the International Classification of Patents for Invention of December 19, 1954, world-wide effectivity by concluding on this topic a Special Agreement in the meaning of Article 19 of the Paris Convention for the Protection of Industrial Property.

In the opinion of the Government of the Federal Republic of Germany, the main importance of this Special Agreement, which will be called Strasbourg Agreement, lies in the fact, that it supplements the endeavours to improve the universal protection of inventors and is, besides the Patent Cooperation Treaty (PCT) signed at Washington on June 19, 1970, an additional step towards a close universal cooperation of Patent Offices. The International Patent Classification is already now an efficient tool to simplify the arrangement of the steadily growing collections of patent documents and patent literature within Patent Offices carrying out novelty examinations.

As compared to the European Convention of 1954, the proposed Special Agreement has the advantage of permitting a larger number of States to participate in this Agreement on an equal footing. It is true that already the European Convention was open to accession by States not members of the Council of Europe, but some of these States felt unable to enter the Convention because such accession would not have given them the same status as enjoyed by the members of the Council of Europe. These States are now given the opportunity to enter an agreement which grants them adequate cooperation in the periodical revisions of the classification system that are to take place in order to meet the requirements resulting from the permanent advances in technology. Since the preparedness to adopt a classification system as a principal or at least a subsidiary system grows with the geographical broadening of its application, it is hoped that the expected participation of some major industrial States outside of the Council of Europe will help to ensure the International Patent Classification a world-wide acceptance worthy of its name.

In the opinion of the Government of the Federal Republic of Germany, the application of the International Classification is, at long sight, one of the prerequisites of the success of the Patent Cooperation Treaty (PCT). During a transitional period, it will, when carrying out the international search according to the Patent Cooperation Treaty, be unavoidable to depend on documentation built up in accordance with the criteria of different national classification systems. Though this approach might lead to quite practicable results in the beginning, application of a common classification system will become mandatory in order to reach the final aim of the Treaty, the obtention of truly identical search standards at all administrations carrying out international searches.

The advantages of the International Patent Classification to developing countries are already mentioned in the introductory part of the Document IPC/DC/2 of the Council of Europe and the World Intellectual Property Organization. The German Federal Government fully shares the view of these Organizations and wants to add that the introduction of a universal patent classification system is important at a moment where a number of developing countries, backed by the possibilities according to Chapter IV of the Patent Cooperation Treaty, start to improve their own patent

system and to establish collections of patent documentation on a larger scale. It seems to be important, that these developing countries have the possibility to use on an equal footing an international patent classification system from the beginning and therefore will abstain from the introduction of separate domestic systems.

The International Patent Classification system, as established and completed within the framework of the Council of Europe and as it is now being further developed under the supervision of the Joint ad hoc Committee of the Council of Europe and the United International Bureaux for the Protection of Intellectual Property (BIRPI), is ample enough as to permit its use as an International Classification of world-wide range.

The Federal Republic of Germany began, as early as 1961, to introduce step by step the International Patent Classification into the German Patent Classification system. Nearly 40 % of the International Patent Classification down to the detailed subdivisions (down to group and subgroup) has so far been incorporated into the German Patent Classification and about 30 % of the entire patent documentation used by the examiners of the German Patent Office is classified in accordance with the International Classification subdivisions. For classifying applications and arranging the search material according to the International Patent Classification this classification has proved to be, in principle, a very efficient systematizing factor, even though practical application has shown certain imperfections of this systems. To remedy these imperfections will be one of the tasks of the Committee of Experts provided for in Article 5 of the Draft Strasbourg Agreement. The Government of the Federal Republic of Germany will be open to any future improvements, as long as the structure of the classification system remains to permit defining patents and other industrial property rights according to the focal point of the invention, by a single complete classification system (section, class, group, subgroup).

At the time of signing the Strasbourg Agreement, the German Patent Office will be in a position, from the technical point of view, to comply with the obligations deriving from the Agreement. Since January 1, 1969, all patent applications filed with the German Patent Office are provided with the complete classification symbols of the International Classification. In the course of 1971, all current publications issued by the German Patent Office will therefore be provided with the complete symbols of the International Patent Classification.

The Government of the Federal Republic of Germany wants to add that it understands Article 3(2) of the Draft Agreement in the way that the International Bureau, in drafting official texts of the classification, will resort to the Patent Offices of those Member States where the language of the official text in question is the official language. As the experience of the previous years has taught, an appropriate and workable translation of the text of the Patent Classification can only be established by these Patent Offices and even there only by experts in the specific technical field. Since technology is continuously advancing, many technical terms are comprehensible only to very specialized experts. This is where patent classifications differ from other classifications whose terms belong to the vocabulary of translators with good general background or may be found in the corresponding technical literature. On that account, it would hardly be possible for the International Bureau to employ experts able to perform translations satisfying the specific necessities of the countries concerned; a more adequate solution therefore appears to be to rely on the skill and experience of the National Patent Offices.

Concluding, the Government of the Federal Republic of Germany wants to state that the provisions of the Draft Strasbourg Agreement, aside from minor points on which the German Delegation to the Diplomatic Conference will comment, seem to be fully acceptable and will find German support in the Diplomatic Conference.

(Original : English)

#### NORWAY

As a member of the Council of Europe, Norway has participated in the elaboration of the European Convention on the International Classification of Patents for Inventions, and is among the countries who have signed this Convention. Norway has ratified the Convention with effect from August 1, 1955. We consider the realization of this Convention as a substantial advance in practical international patent cooperation. The fact that this classification system also has been adopted by a number of countries who have not acceded to the Convention, has of course increased its importance. It will definitely be a substantial step forward if this development can be carried on towards a convention which all the member states of the Paris Union may join.

Norway has only a few remarks concerning the proposed text of the Draft Agreement. The most important part of the Agreement will be the actual classification system, which already is established under the European Convention, and which Norway as already mentioned, has acknowledged and also adopted for use. Furthermore, Norway has ratified both the Nice and the Locarno Agreements, which also to great extent have been used as a model for the present Draft Agreement. Norway agrees that the text of the Patent Classification Agreement in principle should be identical with the text in these two above mentioned Agreements as far the provisions concern corresponding questions. As outlined below there will, however, be provisions in the Agreements concerning trademarks and designs which can not directly be adopted in an Agreement concerning patent classification.

According to Article 1 in the present Draft Agreement the member countries shall adopt a single classification for patents for inventions etc. It should be considered if not the word "common" in this connection would be more satisfactory assuming, as we understand it, that it will still be allowed to use another system of classification, for instance the Universal Decimal Classification in addition to the International Patent Classification, if this should be considered convenient.

In Article 4(1) in the present Draft it is stated that the classification "shall be solely of an administrative character." It is further said: "Nevertheless, each country shall have the right to attribute to it the legal scope it considers appropriate. In particular, the classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded in those countries." This provision, which is stated to be based upon a corresponding provision in the Nice and Locarno Agreements, does not, however, seem appropriate for the patent field. The scope of protection for an invention cannot be decided according to its classification, and no country should therefore be given the opportunity to link any legal right to the classification of an invention. It is assumed to be within the meaning of the Paris Convention that an invention should be protected according to its content and not according to the classification given to it. The above mentioned addition in Article 4(1) should therefore be deleted.

According to Article 5(6)(a) decisions in the Committee of Experts should be based upon "simple majority" except in those cases mentioned under (b), where a decision will require a  $\frac{3}{4}$  majority. It will often be difficult to decide which changes in the classification that will lead to a modification in the basic structure etc. There should therefore, according to the decision made at the meeting of the Committee of Experts at Strasbourg November 12-14, 1969, be adopted a guiding definition for the meaning of "basic structure."

According to Article 12(3) the Agreement will enter into force one year after the deposit of instruments of the ratification—or accession—documents have been deposited by  $\frac{2}{3}$  of the countries which at that date are parties to the European Convention and by three other countries party to the Paris Convention, of which at least one is a country with more than 40,000 applications etc. According to another provision in the same Article 12(3) countries party

to the European Convention which ratify or accede to the new Agreement will be obliged to denounce the European Convention "at the latest with effect from the day on which this Agreement enters into force with respect to those countries."

The term of denouncement from the European Convention is also one year, and this will mean that the countries party to the European Convention, either will have to abstain from ratification of the new Agreement until three other countries, of which at least one with 40,000 applications, have ratified, or they will have to word their denouncement from the European Agreement so that this will be effective from the date the new Convention enters into force. Unless this is done, one might risk that the European Convention becomes inoperative before the new Agreement comes into force. Assuming that the denouncement from the European Convention can be performed in this way, we have no objections to the proposed article. Besides, the interests of the countries party to the European Convention will be satisfactorily taken care of by Article 17.

(Original : English)

#### UNITED KINGDOM

*General:* The United Kingdom is most appreciative of the valuable work carried out under the auspices of the Council of Europe in establishing the International Patent Classification. The use already made of the Classification in several countries is clear evidence that it is a useful tool for dealing with the problems posed by the continually swelling flood of documentation. We welcome the new Agreement as enabling countries to participate on a world wide basis and on an equal footing in the future development of the Classification.

*Article 4(3):* We think it should be made quite clear in paragraph (3) that the symbols which are to be included on a document are those relating to the classification in force on the date on which the document is published.

*Article 5(4)(c):* We interpret paragraph (4)(c) as giving the Committee of Experts authority to organise work-sharing between Patent Offices in the reclassification of published patent specifications when the Classification is amended, but (a) such work-sharing is voluntary and (b) the reclassification is confined to amendments of the Classification as defined in Article 1. If these points are agreed, we should like them to be recorded in the proceedings of the Conference.

*Article 5(6)(b):* We consider that paragraph (6)(b) should be limited to decisions "giving rise to a modification in the basic structure of the Classification." The alternative criterion proposed in the draft not only appears irrelevant, since the Agreement rightly imposes no obligation to reclassify, but is so vague that it would be likely to cause serious difficulties for the Committee of Experts.

Other points, primarily of a drafting nature, will be raised at the Conference.

(Original : English)

#### UNITED STATES OF AMERICA

[...]

##### Article 5—Committee of Experts

Paragraph (6)(b) provides that "any decision which is regarded by one-fifth of the countries represented as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification shall require a majority of three-fourths of the countries represented." The United States of America believes that this paragraph requires clarification or a definition of the terms "modification" and "substantial work." The present language is indefinite in that it relates a basic modification

to the work to be done and further states that the amount of work per se could be considered to be a basic modification of the basic structure of the classification.

An approach of this type (work related) is an unmanageable and indefinite standard and should be overcome to avoid future problems. The following text would be added at the end of paragraph (6)(b).

"In particular, (i) the addition or deletion of a Section in the classification shall be considered to be a basic modification of the classification; (ii) the transfer of "art" or subject matter from one Section to another for the purpose of reclassification and return shall not be construed as a basic modification of the classification; (iii) the abolishing of an existing subclass or group or the creation of a new subclass or group shall not be construed to be a basic modification of the classification; and (iv) additionally, the reclassification of a subclass, group, or subgroup shall not be construed to be a basic modification of the classification."

In addition to the foregoing, the United States of America has some editorial and drafting points which would involve no substance. We plan to submit these points for consideration at the Diplomatic Conference.

(Original : English)

#### INTERNATIONAL PATENT INSTITUTE

1. In the opinion of the International Patent Institute, its position, as reflected in IPC/DC/2 and particularly in the draft Agreement included therein, is not satisfactory in itself nor sufficiently protected, particularly considering its proposed functions under the PCT and the European Patent plans. In this connection it should be noted that the IIB will be one of the principal users, possibly the most important, of the IPC and should therefore, in our opinion, have a very effective voice in the future development of the IPC.

As the draft stands at present

a) Article 7(2)(a)(vii) leaves to the Assembly, as constituted under Article 7(1), the determination of which inter-governmental organizations may be admitted as observers to its meetings, committees and working groups.

b) Article 5 provides only for an invitation to the IIB to be represented as an observer in the Committee of Experts.

It is our opinion that

- (i) the IIB should be represented as of right, but with observer status only, in the Assembly;
- (ii) the IIB should have full membership in the Committee of Experts, its subcommittees and working groups (this proposal was, you will recall, put forward by the Netherlands Delegation at the Paris meeting of the Joint Ad Hoc Committee.)

The proposals would bring the position of the IIB under this Agreement into close agreement with its position under the ICIREPAT Rules.<sup>1</sup>

These proposals could be achieved by amendments of the Draft Agreement (English version) as follows:

*Article 7:* add in Article 7(1)(c) after "Europe," "and the International Patent Institute";

*Article 5:* add in Article 5(1) after "Union," "and the International Patent Institute." Consequential amendment of Article 5(3), by inclusion of a specific reference to

<sup>1</sup> *Editor's Note:* The abbreviation ICIREPAT means: "International Cooperation in Information Retrieval Among Patent Offices"; see Article 1 of the Organizational Rules of ICIREPAT adopted on September 24, 1971.



the "International Patent Institute," would be required but this amendment appears necessary in any event. It will, however, be noted that no amendment of Article 5(6)(a) is requested.

In this connection I would also draw your attention to our previous observations embodied in CE/BIRPI/III/3.

2. The International Patent Institute is not in agreement with the substance of Article 5(6)(b) in so far as it includes the words "or as entailing a substantial work of reclassification." The extent of the work involved in reclassification is not, in our opinion, a sufficient reason for requiring the higher majority.

3. Document IPC/DC/2 appears to us to require amendment for the purpose of clarification, to remove inconsistencies and to bring the English and French texts into agreement in the following respects:

(a) Paragraphs 29, 30 and 84 of document IPC/DC/2 refer to conclusions approved by the Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union. Among these conclusions, as enumerated in paragraph 31 of document IPC/DC/2, appears at paragraph (2)(b): "They should not impair the classification system ... i.e. the basic structure of the Classification should not be altered..." Nevertheless, paragraph 54 of document IPC/DC/2 refers to "modification in the basic structure" being possible and Article 5(6)(b) makes specific provision for such modification.

(b) The word "single" in paragraph 49 of document IPC/DC/2 and in Article 1 of the text of the Draft Agreement (document IPC/DC/2) may cause difficulty i.e. it could be interpreted as referring to a common classification system, to a classification to be adopted to the exclusion of all others, or even to a system wherein a single classification symbol only is to be applied to each patent. Moreover, the French and English texts do not appear to agree in this respect. This objection could be met by amendment of the English text to read "the same" instead of "a single"; another possibility is to replace "single" by "common."

(c) In Article 4(3) should there not be some reference to the exception allowed in Article 4(4) e.g. by inclusion of the words "Subject to the provisions of paragraph (4) of this Article" at the beginning of Article 4(3)? Moreover, it is noted that Article 4(3) does not clearly state that the complete symbols must be those of the classification in force at the date of publication, as appears to be implied in paragraph 74 of document IPC/DC/2.

(d) The existing Article 7(2)(vii) of the English text should be renumbered 7(2)(viii) and the subject matter of Article 7(2)(vii) of the French text introduced into the English text as 7(2)(vii).

*(Original: English)*

#### INTERNATIONAL CHAMBER OF COMMERCE

[...] We are pleased to inform you that the National Committees of the International Chamber of Commerce unanimously declared themselves to be in favor of the extension of the European Convention to the world-wide level.

With regard to the text of the Draft Agreement (document IPC/DC/2), there was also unanimity in recommending an amendment to Article 5(2)(c), in the spirit of Article 56(2)(d) of the Patent Cooperation Treaty (PCT) signed at Washington on June 19, 1970, which would enable the Director General, on his own initiative, to invite interested organizations to be represented by observers.

*(Original: French)*

#### IPC/DC/5

January 15, 1971 (Original: Indicated in Each Case)

#### BELGIUM, IRELAND

#### Observations on the Draft Strasbourg Agreement Concerning the International Patent Classification

#### BELGIUM

The Belgian Government welcomes the initiative taken by the Council of Europe with a view to establishing an International Classification of Patents. It has no particular comments to make on the draft Agreement presented in document IPC/DC/2, dated June 25, 1970.

The collaboration of the Council of Europe and the World Intellectual Property Organization will, like the European Convention of December 19, 1954, on the International Classification of Patents for Invention, give a much broader scope to international patent classification. This applies both to European countries which are not members of the Council of Europe and to non-European countries party to the Paris Convention for the Protection of Industrial Property (1883), last revised at Stockholm in 1967.

If those countries approve the draft, they may collaborate, in the capacity of full members, in the maintenance and in the revisions of the International Classification in such a way that there will be nothing to prevent the eventual application of a uniform classification on a world wide scale.

*(Original: French)*

#### IRELAND

In Ireland classification to subgroup level of the Classification is carried out at examination. However, pursuant to Rule 117 of the Patents Rules, 1965, complete specifications accompanying applications for patents are laid open to public inspection 18 months after application or earliest priority date. A list of the specifications as laid open is published in the Official Journal of the Patents Office at this stage, the specifications have been classified only to the subclass level of the IPC and the corresponding symbols are shown in the Journal notice. It would be impractical for Ireland at present to include the complete symbols of the IPC on these specifications and in the Journal notice. The appropriate full symbols are determined at a later stage viz., during examination, and are quoted in the published complete specifications accepted, as well as in the lists of these specifications published in the Journal.

Ireland therefore proposes with regard to document IPC/DC/2:

- (1) Renumbering of Article 4(4) to Article 4(4)(a); and
- (2) Insertion of a new paragraph on the lines of the following draft:

"Article 4(4)(b)—Any country in which specifications accompanying applications for patents are laid open to public inspection before examination, may, when signing this Agreement or when depositing its instruments of ratification or accession, declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in these particular applications and specifications and in notices relating thereto referred to in paragraph 3(ii)."

In the Official Journal of the Patents Office, a list of Applications for Patents is also published shortly (say within one month) after they are received. The list gives the name of the applicant, an abbreviated title, the date of the application, and in the case of a Convention application, the Convention country and the priority date(s)

claimed. This list gives no indication of the classification, and it is presumed that it would be outside the scope of Article 4(3) of the Draft Agreement.

(Original : English)

IPC/DC/6 February 19, 1971 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

Proposals Concerning the Administrative Provisions of the Draft Strasbourg Agreement (document IPC/DC/2)

#### Introductory Note

1. The Draft Strasbourg Agreement concerning the International Patent Classification was prepared before the Diplomatic Conference on the Patent Cooperation Treaty (PCT), which took place in Washington from May 25 to June 19, 1970.

2. The administrative provisions of the Draft Strasbourg Agreement (Articles 7 to 17) follow in general the texts of the Stockholm Diplomatic Conference (1967).

3. The administrative provisions which have been adopted at Washington for the PCT contain some improvements of the Stockholm text.

4. It is proposed to take these improvements into account for the Strasbourg Agreement as far as they concern the administrative provisions of that Agreement. The proposals for amendment are contained in the Annex to this document.

5. Furthermore, it is proposed to correct a clerical error in Article 9(7)(a) where a part of the sentence is missing in the English version of document IPC/DC/2 (the French version is complete).

#### Annex to document IPC/DC/6

##### Proposals for Amendments

1. in Article 7, delete paragraph (2)(a)(ix): renumber paragraph (2)(a)(x) as paragraph (2)(a)(ix) and paragraph (2)(a)(xi) as paragraph (2)(a)(x).

2. in Article 7(3)(c), the words "Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly," should be replaced by: In the absence of the quorum

3. in Article 7(3)(d), the words "Article 10(2)" should be replaced by: Article 11(2)

4. Article 8(2)(a) should read: The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision.

5. in Article 9(7)(a), the second sentence should read: The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

6. in Article 10 (old Article 11, document IPC/DC/2) in the title, the words "Articles 1 to 6, and 11 to 17" should be replaced by: The Agreement

7. Article 10 (old Article 11, document IPC/DC/2) should read:

(1) This Agreement may be revised from time to time by a special conference of the countries of the Special Union.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Articles 7, 8, 9 and 11 may be amended either by a revision conference or according to the provisions of Article 11.

8. in Article 11 (old Article 10, document IPC/DC/2), in the title, the words "Articles 7 to 10" should be replaced by: Certain Provisions of the Agreement

9. Article 11(3) (old Article 10(3), document IPC/DC/2) should read:

(a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted.

(b) Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all countries which become members of the Special Union after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

10. in Article 12, the title should read: **Becoming Party to the Agreement**

11. Article 12 (1) should read:

Any country party to the Paris Convention for Protection of Industrial Property may become party to this Agreement by: (i) signature followed by the deposit of an instrument of ratification, or (ii) deposit of an instrument of accession.

12. Article 12(3) and (4) should read (the old Article 12 (3) and (4), document IPC/DC/2, becomes Article 13):

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(4) Paragraph (3) shall in no way be understood as implying the recognition or tacit acceptance by a member country of the factual situation concerning a territory to which this Agreement is made applicable by another country by virtue of the said paragraph.

13. in Article 13 (old Article 12(3) and (4), document IPC/DC/2), the title should read: **Entry into force of the agreement**

14. in Article 13(1)(a)(ii) (old Article 12(3)(a)(ii), document IPC/DC/2), the words "the latest statistics available" should be replaced by: the most recent annual statistics published by the International Bureau, and the words "are filed each year" should be replaced by: have been filed

15. in Article 14, the text is identical with the text of old Article 13 (document IPC/DC/2). There is no amendment.

16. in Article 15(1) (old Article 14(1), document IPC/DC/2) the words "Any country" should be replaced by: Any member country

17. the old Article 15: **Territories** (document IPC/DC/2) should be deleted.

18. in Article 16(3), add as subparagraph (c): The Director General shall transmit two copies, certified by him, of any amendment to this Agreement to the Governments of all member countries and, on request, to the Government of any other country.

19. in Article 16(5) the words "Special Union" should be replaced by: International Union for the Protection of Industrial Property and the Secretary General of the Council of Europe

IPC/DC/7 February 19, 1971 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Draft Recommendations Concerning the Administration of the International Patent Classification and the Financing of that Administration**

*Introductory Note*

1. With the signature of the Strasbourg Agreement concerning the International Patent Classification, the administration of that Classification will enter into a new phase.

2. In order to take into account the new situation, the two draft recommendations contained in Annexes I and II to this document are submitted to the Conference.

*Annex I: Draft Recommendation concerning the IPC Administration*

The Strasbourg Diplomatic Conference,

Referring to the decisions of the Committee of Ministers of the Council of Europe at its 178th meeting and of the Executive Committee of the Paris Union at its Fourth Session, concerning the setting up of the Joint ad hoc Committee of the Council of Europe and WIPO on the International Classification of Patents,

Considering that the signature of the Strasbourg Agreement will mark the beginning of a new phase in the administration of the International Patent Classification.

Recommends to the Secretary General of the Council of Europe and to the Director General of the World Intellectual Property Organization that they examine, where appropriate in consultation with the Committees concerned, whether it is desirable to submit new proposals to the Committee of Ministers of the Council of Europe and to the Executive Committee of the Paris Union, with a view to completing, making more specific, or adapting the decisions taken previously by the said Committee of Ministers and the said Executive Committee.

*Annex II: Draft Recommendation concerning the Financing of the IPC Administration*

The Strasbourg Diplomatic Conference,

Considering that the budget of the Paris Union for the Protection of Industrial Property will not cover the expenses incurred by the International Bureau of WIPO in the administration of the International Patent Classification until the Strasbourg Agreement has entered into force,

Considering that those expenses should be covered by voluntary contributions by the various member countries of the Paris Union which are interested in the International Patent Classification,

Recommends that the Director General of WIPO prepare, with the assistance of a Consultative Committee, proposals

for this purpose and that he submit these to the Executive Committee of the Paris Union at its 1971 session.

IPC/DC/8 February 19, 1971 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Revision of the Draft Agenda (document IPC/DC/1)**

*Note*

1. In view of Rule 3(3) and (4) of the Draft Rules of Procedure, the Draft Agenda which is contained in document IPC/DC/1 will have to be completed by mentioning the appointment of the Rapporteur General and the Secretary General of the Conference.

2. The revised Draft Agenda is contained in the Annex to this document.

*Annex: Draft Agenda revised*

1. Opening of the Conference by the Secretary General of the Council of Europe

2. Address by the Director General of WIPO

3. Election of the Chairman of the Conference

4. Adoption of the Agenda

5. Adoption of the Rules of Procedure of the Conference

6. Appointment of :

(a) the Rapporteur General of the Conference

(b) the Secretary General of the Conference

7. Election of :

(a) the Vice-Chairmen of the Conference

(b) the members of the Credentials Committee

(c) the members of the Drafting Committee

8. Consideration of the reports of the Credentials Committee

9. Consideration of the texts submitted by the Main Committee<sup>1</sup>

10. Final vote on :

(a) the text of the Agreement Concerning the International Patent Classification

(b) the General Report

(c) all other texts, resolutions or recommendations

11. Closing of the Conference by the Chairman of the Conference.

*Note:* The signing of the instruments adopted by the Conference will take place at a special ceremony immediately after the closing of the Conference.

<sup>1</sup> According to the Draft Rules of Procedure, the Conference would be transformed into Main Committee prior to consideration of the Draft Agreement.

**IPC/DC/9** March 12, 1971 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Survey on the Use of the International Patent Classification (Int. Cl.)**

*Introductory Note*

1. The annex to the present document contains the results of an updating of a previous survey (documents CE/BIRPI/II/19 and CEP/V/12 respectively) as to the present and anticipated future use of the International Patent Classification (hereinafter referred to as "the Classification") by countries, set out according to countries in alphabetical order, and intergovernmental organizations :

(A) countries which use the Classification at present, indicating the extent to which they use it, as far as communicated to the Secretariat General of the Council of Europe and the World Intellectual Property Organization,

(B) countries which intend to use the Classification in the future, indicating the date, where applicable,

(C) countries which have indicated they do not have any plans for using the Classification,

(D) intergovernmental organizations using the Classification.

2. If no updating information has been submitted, the annex lists the statements already contained in the above-mentioned previous survey.

3. The annex contains only a summary of detailed replies. The full text of these replies is available on request.

**Annex to Document IPC/DC/9**

*A. Countries Using the Classification*

**ALGERIA** : Using Int. Cl. from early 1969.

**AUSTRALIA** : Int. Cl. to subclass level in all sections printed on abridgements of accepted complete specifications and on printed specifications. Years from May 1958 on covered.

One public search file arranged according to Int. Cl. to subclass level containing all specifications since May 1958. Investigations in progress regarding the printing of Int. Cl. symbols to subgroup level on all abstracts, abridgements and printed specifications, as well as to how the Incl. Cl. symbols on foreign patent documents may be stored for easy access.

**AUSTRIA** : Int. Cl. on domestic patent specifications in all sections to subclass level from January 1, 1966, to subgroup level from September 1, 1969.

Investigations in progress to reclassify the search files according to Int. Cl. to subgroup level.

**BELGIUM** : From January 1955 Int. Cl. to subclass level in all sections on domestic patent specifications.

**CHILE** : Using Int. Cl. from July 1969.

**CUBA** : Using Int. Cl. from January 1969 as secondary classification.

**CYPRUS** : Registers granted United Kingdom patents ; classification therefore same as applied by United Kingdom.

**CZECHOSLOVAKIA** : Domestic patent applications : All sections to subgroup level from July 1, 1969.

Domestic patents :

All sections to subgroup level from January 1, 1970. Reclassification of earlier granted domestic patents as soon as possible.

Use of Int. Cl. for foreign patent documents as far as classified according to it by country of origin.

**DENMARK** : Int. Cl. on domestic patent documents in all sections to subclass level from May 1958.

To subgroup level :

Section A from July 1964

Section E from March 1965

Section H from April 1966

Section C from October 1966

Sections B and G from July 1967

Sections D and F from September 1967

Int. Cl. to subgroup level in all sections on printed accepted applications from April 1968.

**FINLAND** : Printed domestic abridgements of patents from 1899 to 1944, complete domestic patent publications from 1944, and published domestic patent applications from 1968 classified according to Int. Cl. to subgroup level in all classes in which the German Classification System uses the Int. Cl. Reclassification of older patents in 1971.

Search files containing patent documents of Denmark, France, Germany (Federal Republic), Norway, Sweden, Switzerland, United Kingdom and USA arranged according to Int. Cl. as far as the documents have been classified this way by the originating country. Reclassification of backlog according to reclassification lists received.

**FRANCE** : From January 1955 to December 1968, Int. Cl. in all sections to subclass level, in selected subclasses to group level, from January 1969 on in all sections to group level on domestic patent documents.

Classification to subgroup level in certain sections latest at entry into force of Strasbourg Agreement.

**GERMANY (Fed. Republic)** : Int. Cl. printed on first (OS)<sup>1</sup> and second (DAS)<sup>2</sup> publications and on patent specifications to subclass level in all sections since 1956, to subgroup level in 233 selected subclasses from August 1, 1968. Search files in these 233 subclasses arranged accordingly.

Int. Cl. in all sections to subgroup level on patent documents planned from autumn 1971, on utility model specifications from 1972. Reclassification of search files to be completed in 1975.

Search files of the 233 selected subclasses containing patent documents of Austria, Belgium, France, the German Democratic Republic, Switzerland, the United Kingdom and the United States of America arranged according to Int. Cl. to subgroup level ; search files in all sections to be reclassified accordingly by 1975.

**GHANA** : Registers granted United Kingdom patents ; classification therefore same as applied by United Kingdom.

**HUNGARY** : Int. Cl. in all sections to subgroup level on domestic patents published in and after 1970. Search files arranged accordingly. Reclassification into Int. Cl. to subgroup level of domestic patents published between 1916 and 1969 in 1971.

Search files containing French (from 1955) and Soviet Union (from 1962) patent documents arranged according to Int. Cl. to subclass level, Swiss (from 1969) and United Kingdom (from 1968) patent documents to subgroup level.

**IRAN** : Int. Cl. used (on a provisional basis).

*Editor's Notes :*

<sup>1</sup> *Offenlegungsschrift* (patent application published).

<sup>2</sup> *Deutsche Auslegeschrift* (examined patent application published for opposition).

- IRELAND** : Int. Cl. in all sections to subclass level on domestic patent documents issued since November 1955, to subgroup level on domestic patent documents issued since June 1969. Search files arranged accordingly.
- ISRAEL** : Int. Cl. in all sections to subclass level on domestic patents published in and after 1963, to subgroup level on domestic patents published in and after January 1969. Domestic patents published in and after 1920 to be classified according to Int. Cl. to subgroup level by January 1972. Search files arranged accordingly. Search files of patent documents issued by France from 1964 on, and by Germany from 1960 on, arranged according to Int. Cl. in all sections to subclass level.
- ITALY** : Int. Cl. to subclass level in certain sections on domestic patents since January 1, 1957, and utility models since January 1, 1970.
- JAPAN** : Int. Cl. in all sections to subclass level on domestic patents and in Utility Model Gazettes from October 1, 1970. Classification down to subgroup level as well as reclassification planned to begin in 1972. Search files containing patent documents issued by France, Germany, the Soviet Union, Switzerland, the United Kingdom and the United States planned to be arranged according to Int. Cl. to subgroup level.
- KENYA** : Registers granted United Kingdom patents; classification therefore same as applied by United Kingdom.
- MALAWI** : All sections, selected classes to subclass level from 1964. Domestic patent documents only.
- MONACO** : Int. Cl. is used.
- NETHERLANDS** : Int. Cl. on domestic patent documents to subclass level :
- Sections A to H,  
non-examined applications from January 1, 1964,  
examined applications from November 15, 1955,  
patents from March 15, 1956  
to subgroup level
- Section A  
non-examined applications from August 1, 1966,  
examined applications from March 1, 1965,  
patents from July 1, 1965.
- Section E  
non-examined applications from September 1, 1966,  
examined applications from April 1, 1965,  
patents from August 1, 1965.
- Section H  
non-examined applications from July 1, 1967,  
examined applications from March 1, 1966,  
patents from July 1, 1966.
- Sections B, C, D, F, G from July 1, 1969.
- Search files containing domestic patent documents and patent documents issued by Belgium, France, Germany (Federal Republic), Luxembourg, Switzerland, the United Kingdom and the United States in certain subclasses and classes arranged according to Int. Cl. to subgroup level. Investigations in progress to extend the arrangement of search files according to the Int. Cl.
- NIGERIA** : Registers granted United Kingdom patents; classification therefore same as applied by United Kingdom.
- NORWAY** : Int. Cl. on domestic patents to subclass level :
- Sections A to H from 1956,  
to subgroup level :
- Sections A, C and E from January 1966,  
Sections B, D, F, G and H from September 1968.
- Int. Cl. to subgroup level in sections A to H on examined applications published in and after 1968.  
Domestic patent documents from 1893 in certain subclasses reclassified according to Int. Cl. to subgroup level. Reclassification to be continued.  
Search files containing patent documents issued by Denmark, Finland, France, Germany, Sweden and the United Kingdom in certain classes and subclasses according to Int. Cl. to subgroup level; to be extended in the future depending on the receiving of reclassification lists.
- OAMPI** : Int. Cl. to class level in all sections on domestic patents from 1966. Search files arranged accordingly. Progressive extension to subclass, group and subgroup level envisaged.
- PHILIPPINES** : Int. Cl. as secondary classification to class level in mechanical fields. Extension to chemical and electrical fields in 1972.
- POLAND** : Int. Cl. on domestic patent documents in all sections to subgroup level from January 1, 1970. Search files arranged accordingly.
- ROMANIA** : Int. Cl. in all sections to subclass level as secondary classification on domestic patents published from 1962, as primary classification to subgroup level on domestic patents and inventors' certificates from January 1970. Search files arranged accordingly. Search files of domestic patent documents from 1957 to 1970 planned to be reclassified to Int. Cl. to subgroup level by 1973.
- SINGAPORE** : Registers granted United Kingdom patents; classification therefore same as applied by United Kingdom.
- SOUTH AFRICA** : Not issuing patent documents. Int. Cl. reflected on patent application forms and in the advertisements of acceptances in the Patent Journal.
- SOVIET UNION** : Int. Cl. in all sections on domestic patent documents to subclass level from July 1962, to subgroup level from December 1969. Search files arranged according to Int. Cl. from 1924 on.  
Search files containing German (Federal Republic), Swiss, United Kingdom and United States of America patent documents arranged according to Int. Cl. in all sections to subgroup level, before 1967 (GB) or 1969 (DT, CH) to subclass level. Reclassification to be continued as soon as reclassification lists available.
- SPAIN** : Int. Cl. in all sections to subclass level from January 1967 on domestic patent documents.
- SWEDEN** : Int. Cl. in all sections to subclass level on domestic patent documents from January 1958 to 1967; to subgroup level :
- Sections A and E from December 1965  
Section H from May 1966  
Section C from October 1966  
Sections B, D, F and G from December 1967.
- Search files containing French, Swiss and United Kingdom patent specifications published in 1970 arranged according to Int. Cl. to subgroup level.
- SWITZERLAND** : Int. Cl. to subgroup level on domestic patents in
- Sections B, D and H from March 1968  
Section C from August 1968  
Sections A, E, F and G from December 1968.

TURKEY : All sections to subclass level from June 1956.

UNITED KINGDOM : Int. Cl. on newly issued patent documents (accepted complete specifications) in all sections to subclass level from January 1957 ;

to subgroup level :

Section A from April 1965

Section E from August 1965

Section H from November 1965

Section C from May 1966

Section G from May 1967

Section B from August 1967

Sections D and F from November 1967

It is planned to arrange United States patent specifications issued on and after January 1, 1970, in the search files according to Int. Cl. to subgroup level by mid-1971.

USA : Int. Cl. in all sections to subgroup level printed on US patents issued from January 1969. Wherever considered appropriate, as reclassification of national files is done, it will be structured to be compatible with Int. Cl. schedules.

YUGOSLAVIA : Int. Cl. in all sections to subclass level on domestic patent documents from 1965.

ZAMBIA : Int. Cl. is used.

**B. Countries Intending to Use the Classification**

BRAZIL  
INDIA

LUXEMBOURG

**C. Countries Not Planning to Use the Classification**

ARGENTINA \*  
BURUNDI  
CANADA \*  
COSTA RICA  
GUATEMALA  
IRAQ  
JAMAICA  
JORDAN  
KOREA <sup>1</sup>  
LIBYA

MALTA  
MEXICO  
MOROCCO  
NEW ZEALAND  
SUDAN  
SYRIA <sup>2</sup>  
TANZANIA <sup>3</sup>  
TRINIDAD AND TOBAGO  
UNITED ARAB REPUBLIC <sup>4</sup>  
URUGUAY \*  
VENEZUELA

\* Argentina noted that it was studying the feasibility of converting its domestic classification to the Int. Cl.

Canada indicated that no decision as to the use of the Int. Cl. for domestic patent documents has been made. A list of concordance between the Int. Cl. and the domestic classification is kept up to date.

Uruguay stated that it is intended to adopt the classification system used by Argentina.

**Editor's Notes :**

<sup>1</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as the "Republic of Korea."

<sup>2</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as the "Syrian Arab Republic."

<sup>3</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as the "United Republic of Tanzania."

<sup>4</sup> This State has since changed its name ; at the time of publication of these *Records* it is designated as "Egypt."

**D. Intergovernmental Organizations Using the Classification**

INTERNATIONAL PATENT INSTITUTE (IIB) Whilst the International Patent Institute does not use the Int. Cl. in the sense of applying classification marks in printed specifications and like documents, since it does not publish any specifications or like documents, nevertheless it is a most important user of the Classification in that a large proportion of its searches are at present made, and a much greater proportion thereof will in future be made, in search files classified according to the Int. Cl. The IIB therefore has a very great interest in the development of the Int. Cl.

IPC/DC/10 March 12, 1971 (Original : English/French)

SOVIET UNION

**Observations on the Draft Strasbourg Agreement Concerning the International Patent Classification**

The interested organizations of the Soviet Union approve, in principle, the prepared Draft Agreement and consider it as a sound basis for furthering cooperation among countries members of the Paris Union for the Protection of Industrial Property.

The interested organizations of the Soviet Union are of the opinion that the following amendments should be made in the text of the Agreement.

1. *As to the title of the Strasbourg Agreement, its preamble and Articles 1, 4, 5 and 7*

(a) It would be more appropriate to call the classification the "International Classification of Inventions" and the agreement thereon the "Agreement concerning the International Classification of Inventions," the reasons being, firstly, that the preamble and Article 1 of the Draft Agreement speak not only of patents but also of other forms of protection of inventions ; secondly, it would be more correct as to substance, for the subject of classification is not a document by which the invention is protected but rather its content, i.e., the described and claimed invention.

The amended title would correspond to the letter and spirit of the Locarno and Nice Agreements already concluded, as well as to the Convention Establishing the World Intellectual Property Organization (Article 2(viii)).

Consequential amendments would be required in the first paragraph of the preamble, in Article 1 and in section 5 of Article 4.

(b) Delete the second paragraph of the preamble starting with the words "Recognizing the importance . . . etc." and model the preamble on those of the WIPO Convention and the Patent Cooperation Treaty without making reference to any organization which contributed to the elaboration of the document.

(c) The mentioning of the representation in an observer capacity of the Secretary General of the Council of Europe at the meetings of the Union is unnecessary (Article 5(2)(a), (5) and Article 7(1)(c)), for in the following paragraphs it is provided that there will be admittance of observers from the intergovernmental and international non-governmental organizations.

2. *As to Article 15*

This Article should be deleted, for the provisions of Article 24 of the Paris Convention for the Protection of Industrial Property, to which Article 15 of this Agreement refers, are outdated and contrary to the Declaration of the General Assembly of the United Nations on the granting of independence to colonial countries and peoples (Resolution 1514(XV) of December 14, 1960).

3. *As to Article 16*

Article 16 provides, in particular, that the signed text of the Agreement should be deposited with the Secretary General of the Council of Europe.

Since this Agreement is concluded within the framework of the Paris Convention for the Protection of Industrial Property, its signed text should be deposited with the Director General of WIPO. The Soviet Union does not agree to entrusting the depositary functions to the Secretary General of the Council of Europe.

IPC/DC/11 March 14, 1971 (Original: English)

UNITED STATES OF AMERICA

**Proposals for Amendment of Articles 2(1)(a)(iii) ; 4(4) ; 12(3)(a)(ii), (4) ; 13 ; 16(1)(a) of the Draft Agreement (document IPC/DC/2)**

1. *in Article 2(1)(a)(iii), the words "enter into force" should be replaced by: have entered into force*

2. *in Article 4(4), the words "instruments of ratification" should be replaced by: instrument of ratification*

3. *in Article 12(3)(a)(ii) (Article 13(1)(a)(ii) of document IPC/DC/6), the words "the date of its instrument of ratification" should be replaced by: the date of deposit of its instrument of ratification*

4. *in Article 12, paragraph (4) should be deleted*

5. *in Article 13 (Article 14 of document IPC/DC/6) delete: force and*

6. *in Article 16(1)(a), the word "copy" should be replaced by: original, since the signed document is the original, not a copy.*

IPC/DC/12 March 15, 1971 (Original: English)

AUSTRALIA

**Proposals for Amendment of Article 4(3), (5) of the Draft Agreement (document IPC/DC/2)**

1. *in Article 4(3), omit the words "applied to the invention" appearing at the end of the paragraph and insert in their stead the words: applied to the subject-matter; insert at the end of the paragraph the following sentence: Provided that it shall not be necessary for the competent Authorities of the countries of the Special Union to include the symbols of the Classification in copies of applications that are merely laid open to public inspection and thereby deemed to be published or issued to the public for the purpose of public inspection.*

*Note: The meaning of the words proposed to be omitted is not clear, as the Classification deals with subject-matter rather than with inventions.*

The provisions of Article 4(3)(i) do not make it clear whether applications are required to be marked with the symbols of the Classification when they are laid open to public inspection or when they are printed. The Australian Patent Office makes copies of applications available to the public for inspection before examination. The purpose of the proposed amendment is to make it clear that it is not

necessary to include the symbols at this stage, but only when the applications are finally printed.

2. *in Article 4(5), omit the words: heavy type, or*

*Note: The use of heavy type should not be necessary provided the symbols are printed in such a manner as to be clearly legible. The practice in the Australian Patent Office is to use ordinary typewritten script for the symbols of the Classification.*

IPC/DC/13 March 15, 1971 (Original: English)

AUSTRALIA

**Proposals for Amendment of Article 9(4) of the Draft Agreement (document IPC/DC/2)**

*in Article 9, omit paragraph (4) and insert the following paragraph in its stead:*

(4)(a) For the purpose of establishing its contribution towards the budget, each country of the Special Union shall belong to a class and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I . . . . .	25
Class II . . . . .	20
Class III . . . . .	15
Class IV . . . . .	10
Class V . . . . .	5
Class VI . . . . .	3
Class VII . . . . .	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce such change to the Assembly at one of its ordinary meetings. Any such change shall take effect at the beginning of the calendar year following the said session.

*Note: The present paragraph provides that the contributions of the countries of the Special Union are to be calculated in accordance with a class system that is directly connected with the class system under the Paris Convention. The Australian view is that the countries should be given an opportunity to choose the class to which they wish to belong under the Agreement without reference to their class in the Paris Union.*

IPC/DC/14 March 15, 1971 (Original: English)

UNITED KINGDOM

**Proposals for Amendment of Articles 1; 4(5); 5(6); 10(3) of the Draft Agreement (document IPC/DC/2)**

1. *in Article 1, the words "a single classification" should be replaced by: a common classification, and the words "International Patent Classification" should be replaced by: International Classification*

2. *in Article 4(5), the words "International Patent Classification" should be replaced by: International Classification*

3. in Article 5(6), subparagraphs (a) and (b), the words "countries represented" should be replaced by: countries represented and voting; add a new subparagraph (c) as follows: Abstentions shall not be considered as votes.

4. Article 10(3) should read:

(a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted.

(b) Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force provided that any amendment increasing the financial obligations of the member countries shall bind only those countries which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all countries which became members of the Special Union after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

**IPC/DC/15** March 15, 1971 (Original: English)

BELGIUM, FRANCE, LUXEMBOURG, NETHERLANDS,  
SWITZERLAND, UNITED KINGDOM

**Proposals for Amendment of Articles 5(2)(b)(d), (3); 7(1)(c) of the Draft Agreement (document IPC/DC/2)**

The above member States of the International Patent Institute consider that the special position of the Institute in relation to the International Patent Classification calls for the following amendments to Articles 5 and 7:

1. in Article 5(2)(b), after the words "patent field" insert the words: such as the International Patent Institute of The Hague

2. in Article 5, delete paragraph (2)(d).

3. Article 5(3) should read:

The Committee of Experts shall adopt its own rules of procedure which shall allow for the possibility of participation of the intergovernmental organizations referred to in paragraph (2)(b) of this Article in meetings of its subcommittees and working groups and of such organizations holding officership in the Committee or its subcommittees of working groups.

4. in Article 7(1)(c), after the words "Council of Europe" insert the words: and any intergovernmental organization as defined in Article 5(2)(b)

**IPC/DC/16** March 15, 1971 (Original: French)

NETHERLANDS

**Proposals for Amendment of Article 3(2) of the Draft Agreement (document IPC/DC/2)**

in Article 3(2), the words "after consultation with the interested Governments" should be replaced by: on the basis of a translation submitted by the Government or Governments concerned, in consultation with those Governments

**IPC/DC/17** March 15, 1971 (Original: French)

NETHERLANDS

**Proposal for Amendment of Article 4 of the Draft Agreement (document IPC/DC/2)**

in Article 4 (document IPC/DC/2), after paragraph (3), insert the following new paragraph:

If certain countries of the Special Union entrust the grant of patents to a Patent Office common to those countries, they undertake to do their utmost to ensure that the Office in question complies with the obligations referred to in paragraph (3).

**IPC/DC/18** March 15, 1971 (Original: English)

UNITED STATES OF AMERICA

**Proposals for Amendment of Articles 2(1)(a)(ii)(iii), (2)(b)(c); 4(5); 5(2)(d), (4)(a)(d); 6(a)(b) of the Draft Agreement (document IPC/DC/2)**

1. in Article 2(1)(a)(ii)(iii), (2)(b)(c) and in other provisions where the words "and additions" occur (for example in Article 6(2)), delete the words "and additions" as unnecessary.

2. in Article 4(5), the words "preceded by the words: "International Patent Classification," or an abbreviation thereof to be determined" should be replaced by: as determined

3. in Article 5(2)(d), the word "decides" should be replaced by: shall decide

4. in Article 5(4)(a), delete the words "and add to," as unnecessary.

5. in Article 5(4), add a new subparagraph as follows: (d) have the right to establish subcommittees and working groups.

6. Article 5(6)(a) should read:

The decisions of the Committee of Experts shall require a simple majority of the votes cast. Abstentions shall not be counted as votes.

7. in Article 5(6)(b), at the end add:

In particular, (i) the addition or deletion of a Section in the classification shall be considered to be a modification in the basic structure of the classification; (ii) the transfer of "art" or subject matter from one Section to another for the purpose of reclassification and return shall not be construed as a modification in the basic structure of the classification; (iii) the abolishing of an existing subclass or group or the creation of a new subclass or group shall not be construed to be a modification in the basic structure of the classification; and (iv) additionally, the reclassification of a subclass, group, or subgroup shall not be construed to be a modification in the basic structure of the classification.

**IPC/DC/19** March 15, 1971 (Original: English)

NORWAY

**Proposal for Amendment of Article 4(1) of the Draft Agreement (document IPC/DC/2)**

Article 4(1) (document IPC/DC/2) should read:

Subject to the requirements prescribed by this Agreement, the Classification shall be solely of an administrative character.



IPC/DC/20 March 16, 1971 (Original : French)

NETHERLANDS

**Proposal for Amendment of Article 5(6) of the Draft Agreement (document IPC/DC/2)**

1. *At the end of Article 5(6)(a), add :* provided this majority includes the majority of countries represented which have not made the declaration referred to in Article 4(4); *Article 5(6)(a) becomes Article 5(6).*

2. *Delete Article 5(6)(b).*

IPC/DC/21 March 16, 1971 (Original : French)

ARGENTINA, BRAZIL

**Proposals for Amendments of Preamble and of Articles 3(2) ; 5(4)(c) ; 16(2) of the Draft Agreement (document IPC/DC/2)**

1. *in the Preamble, between the third and fourth paragraphs, insert a new paragraph :* In view of the importance to developing countries of this Classification, which gives them easier and methodical access to the constantly growing volume of modern technology,

2. *in Article 3(2), after the word "Classification," insert :* in German, Japanese, Portuguese, Russian, Spanish and

3. *in Article 5(4)(c), at the end of the text, insert :* taking the needs of the developing countries particularly into account.

4. *in Article 16(2), after the words "interested Governments," insert :* in German, Japanese, Portuguese, Russian, Spanish and

IPC/DC/22 March 16, 1971 (Original : French)

TOGO

**Proposal for Amendment of Article 4(4) of the Draft Agreement (document IPC/DC/2)**

*Replace Article 4(4) by the following text :* Countries party to the present Agreement may, at the time of signature or of the deposit of their instruments of ratification or accession, declare that they will apply the International Classification progressively starting with subclass level.

IPC/DC/23 March 16, 1971 (Original : English)

UNITED STATES OF AMERICA

**Proposal for Amendment of Article 4(3) of the Draft Agreement (document IPC/DC/2)**

*Article 4(3) (document IPC/DC/2) should read :* 4(3) The competent Authorities of the countries of the Special Union shall include in

(i) patents, inventors' certificates, utility models and utility certificates issued and in applications relating thereto published by them, [it being understood that applications which have only been laid open for public inspection, are not considered published applications.] and in

(ii) applications which have only been laid open for public inspection, and in

(iii) notices, appearing in official periodicals, of the publication of the documents referred to in subparagraphs (i) and (ii)

the complete symbols of the Classification applied to the invention to which the document referred to in subparagraphs (i) and (ii) relates. With respect to the applications referred to in subparagraph (ii), any country may, when signing this Agreement or when depositing its instrument of ratification or accession, declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in such document and notices relating thereto.

IPC/DC/24 March 16, 1971 (Original : English)

AUSTRIA

**Proposal for Amendment of Article 5(2)(c) of the Draft Agreement (document IPC/DC/2)**

*Replace Article 5(2)(c) (document IPC/DC/2) by the following text :* The Director General shall, on his own initiative or at the request of the Committee of Experts, invite representatives of other intergovernmental and international non-governmental organizations to participate in discussions of interest to them.

IPC/DC/25 March 16, 1971 (Original : French)

ARGENTINA, BRAZIL

**Proposal for Amendment of Article 7(2)(a)(vi) of the Draft Agreement (document IPC/DC/2)**

*Replace the text of Article 7(2)(a)(vi) (document IPC/DC/2) by the following text :* decide on the establishment of official texts of the Classification in languages other than English, French and those referred to in Article 3(2) ;

IPC/DC/26 March 17, 1971 (Original : French)

ALGERIA

**Proposal for Amendment of Article 16(1)(a) of the Draft Agreement (document IPC/DC/2)**

*Replace the text of Article 16(1)(a) (document IPC/DC/2) by the following text :* This Agreement shall be deposited for signature, in two originals in the English and French languages, both languages being equally authentic, with the Secretary General of the Council of Europe and the Director General of the World Intellectual Property Organization. States may sign either of the two texts.

**IPC/DC/27** March 17, 1971 (Original : English)

AUSTRALIA

**Proposal for Amendment of Article 4 of the Draft Agreement as proposed in document IPC/DC/23**

1. *in Article 4(3) omit the words "relating to the groups and subgroups" appearing at the end of paragraph.*

2. *Change the period (.) at the end of Article 4(3) to a comma (,) and add the words : or that it does only include the symbols relating to the classes and subclasses in such documents and notices relating thereto.*

**IPC/DC/28** March 17, 1971 (Original : English)

BRAZIL, FRANCE, GERMANY (FEDERAL REPUBLIC), UNITED KINGDOM, UNITED STATES OF AMERICA

**Proposal for Amendment of Article 16(1), (3)(a)(c), (5) (documents IPC/DC/2 and IPC/DC/6)**

1. *Article 16(1)(a) and (b) (document IPC/DC/2) should read :*

(a) This Agreement shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) This Agreement shall remain open for signature at Strasbourg until September 30, 1971.

2. *in Article 16(1) (document IPC/DC/2), add a new subparagraph (c) : The original of this Agreement, when no longer open for signature, shall be deposited with the Director General.*

3. *Article 16(3)(a) (document IPC/DC/2) should read : The Director General shall transmit two copies certified by him, of the signed text of this Agreement to the Governments of the countries that signed it and, on request, to the Government of any other country. He shall further transmit a copy, certified by him, to the Secretary General of the Council of Europe.*

4. *in Article 16(3)(c) (document IPC/DC/6), at the end add : He shall further transmit a copy, certified by him, to the Secretary General of the Council of Europe.*

5. *The text of Article 16(5) (document IPC/DC/2) should be replaced by the corresponding text contained in document IPC/DC/6.*

**IPC/DC/29** March 17, 1971 (Original : English)

WORKING GROUP I ON ARTICLE 5

**Report (Examination of the proposals for amendments of Article 5(2)(b)(d), (3), contained in document IPC/DC/15)**

1. Working Group I on Article 5, consisting of the Delegations of Argentina, Brazil, France, Germany (Federal Republic), Japan, the Netherlands, Switzerland and the United Kingdom and the representative of the International Patent Institute, met under the chairmanship of Mr. E. Armitage (United Kingdom) to consider the proposals for amendment of Article 5 contained in document IPC/DC/15.

2. The Working Group unanimously agreed that paragraph (2)(b) of Article 5 should remain without change.

3. The Working Group unanimously agreed to propose the following amendments in Article 5, paragraphs (2) and (3) :

(i) Delete subparagraph (d) of paragraph (2).

(ii) Amend paragraph (3) as follows : "The Committee of Experts shall adopt its own Rules of Procedure which shall, inter alia, allow for the possibility of participation of intergovernmental organizations, referred to in paragraph (2) (b), which can perform substantial work in the development of the Classification, in meetings of its subcommittees and working groups."

4. The Working group furthermore unanimously agreed to propose that the report of the Conference should contain a statement to the following effect : "The Conference recognized that the International Patent Institute would be one of the intergovernmental organizations qualifying under Article 5(3). As to the possibility of the intergovernmental organizations referred to in Article 5(3) holding officership in the Committee of Experts or its subcommittees and working groups, the Conference agreed that this question should be further studied, having due regard to the provisions of Article 9 of the Organizational Rules of ICIREPAT."

5. The Working Group was of the opinion that the revised version of Article 5(3) would not exclude the Committee of Experts from defining, in its Rules of Procedure, the extent to which intergovernmental organizations, other than those referred to in Article 5(3), and international non-governmental organizations may participate in the meetings of the subcommittees or working groups established by it.

6. The Working Group did not consider the proposal for Article 7(1)(c) which features in document IPC/DC/15. This proposal is left for consideration by the Main Committee.

**IPC/DC/30** March 17, 1971 (Original : French)

ALGERIA

**Proposals for Amendment of Articles 5(2)(a), (5); 7(1)(e) of the Draft Agreement (document IPC/DC/2)**

1. *Article 5(2)(a) should be deleted.*

2. *Article 5(5) should be submitted to the Drafting Committee with suggestion to omit the part of text concerning the Secretary General of the Council of Europe.*

3. *Article 7(1)(c) should be deleted for adapting paragraph (5) to paragraph (2) modified.*

**IPC/DC/31** March 17, 1971 (Original : English/French)

WORKING GROUP II ON ARTICLE 3(2)

**Report (Examination of the proposals for amendments of Article 3(2), contained in documents IPC/DC/16 and IPC/DC/21)**

1. Working Group II on Article 3(2), consisting of the Delegations of Algeria, Argentina, Brazil, Germany (Federal Republic), Japan, the Netherlands, Spain, the United

Kingdom and the United States of America, met under the chairmanship of Mr. L. M. Laurelli (Argentina) to consider proposals for amendment of Article 3(2) contained in documents IPC/DC/16 and IPC/DC/21.

2. In addition, the Delegation of Argentina proposed to add to the proposal contained in document IPC/DC/16 the following words: "or by any other means which do not entail financial implications on the budget of the Special Union or on WIPO." It was understood that by this addition, the words "in consultation with those Governments," contained in the proposal of Delegation of the Netherlands (IPC/DC/16), had to be replaced by the words "in consultation with the interested Governments."

3. Several delegations stressed the extraordinary volume of work and expenses involved in the preparation and publication of translations of the International Classification.

4. The Working Group unanimously agreed to propose the following amended text of Article 3(2): "Official texts of the Classification, in German, Japanese, Portuguese, Russian, Spanish and in such other languages as the Assembly referred to in Article 7 may designate, shall be established by the International Bureau of the Organization (hereinafter designated as the "International Bureau"), on the basis of a translation submitted by the Government or Governments concerned, or by any other means which do not entail financial implications on the budget of the Special Union or on WIPO, in consultation with the interested Governments."

IPC/DC/32 March 18, 1971 (Original: French)

ARGENTINA, TOGO

**Proposal for Amendment of Article 5(4) of the Draft Agreement (documents IPC/DC/2 and IPC/DC/18)**

1. *in Article 5(4), add after subparagraph (c) a new subparagraph (d): shall take all other measures which, without occasioning a financial burden on the budget of the Special Union or on WIPO, would facilitate the application of the International Classification by developing countries.*

2. *The former subparagraph (d) of Article 5(4) adopted following a proposal by the United States of America (document IPC/DC/18), becomes subparagraph (e) of the same Article.*

IPC/DC/33 March 20, 1971 (Original: English/French)

DRAFTING COMMITTEE

**Draft Strasbourg Agreement Concerning the International Patent Classification**

*Editor's Note: This document contains the complete text of the Draft Strasbourg Agreement concerning the International Patent Classification as submitted to the Main Committee. In the following, only the difference is indicated between the English text of the Draft and the text as adopted by the Conference, published below, see p. 165*

*Article 15(1) of the Draft was: Any country may denounce this Agreement by notification addressed to the Director General.*

IPC/DC/34 March 20, 1971 (Original: English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Draft Final Act of the Strasbourg Diplomatic Conference on the International Patent Classification**

*Editor's Note: This document contains the complete text of the Draft Final Act of the Strasbourg Diplomatic Conference on the International Patent Classification. There is no difference between the English text of the Draft and the signed text of the Final Act; see below, p. 179*

IPC/DC/35 March 20, 1971 (Original: English/French)

ROMANIA

**Draft Recommendation concerning the Exchange of Concordance Tables and Lists of Patent Documents reclassified according to the International Patent Classification**

The Strasbourg Diplomatic Conference on the International Patent Classification,

Considering the importance of reinforcing international cooperation in the patent field to foster the development of technology,

Taking into account the importance of a modern documentation of technology in order to meet the needs of Patent Offices as well as those of scientific research and of industry,

Having regard to the Strasbourg Agreement Concerning the International Patent Classification, adopted by the Diplomatic Conference,

Having regard to the importance of uniform reclassification of patent documents according to the said Classification for the international cooperation in the patent field, in particular in the framework of the Patent Cooperation Treaty (PCT),

Taking into consideration the necessity to avoid, as much as possible, a duplication of effort in the work of reclassification of patent documents,

Recommends to the countries of the Paris Union for the Protection of Industrial Property to exchange, upon request,

(a) concordance tables, established by their Offices, between their national classification and the international classification,

(b) lists of patent documents, established by the said Offices, resulting from the reclassification of their search files according to the international classification, whether these lists comprise patent documents as such or documents relating to inventors' certificates, utility models, utility certificates or applications for the said kinds of protection,

Invites the International Bureau of WIPO to cooperate with national Offices in an effort to facilitate such exchanges, if requested.

IPC/DC/36 March 21, 1971 (Original: French)

RAPPORTEUR GENERAL

**Draft Report**

*Editor's Note: This document contains the complete text of the Draft Report submitted by the Rapporteur General. In the following, only the differences are indicated between the*

*English text of the Draft Report and the text adopted of the General Report, published below, see p. 141*

1. in paragraph 13 of the text adopted, the words "on June 25, 1970" are omitted.

2. in paragraph 26 of the text adopted, in the second sentence, after the words "the advantage of adopting," are added the words : in a spirit of universality

3. in paragraph 38 of the text adopted, in the fourth sentence, after the words "on a proposal by the" are added the words : Delegation of the

4. in paragraph 54 of the text adopted, in the first sentence, after the words "which observers" are added the words : referred to in Article 5(2)(a) and (b)

5. The text of paragraph 60, in the Draft (document IPC/DC/36), read : This provision, which deals with the notification, entry into force and publication of decisions of the Committee of Experts, gave rise to no observations.

6. The beginning of paragraph 85, in the Draft (document IPC/DC/36) read : Finally, on a proposal by the Delegation of Romania, the Conference adopted a third recommendation concerning the exchange of the concordance lists and tables drawn up by Patent Offices which reclassify, according to the International Classification, patent documents previously classified according to their national classifications. It is in the general interest that, when such lists have been drawn up, they should be placed at the disposal ...

IPC/DC/37 March 22, 1971 (Original : English)

CREDENTIALS COMMITTEE

#### Report

1. The Credentials Committee established in accordance with Rule 11 of the Rules of Procedure met on March 16 and March 22, 1971, under the chairmanship of Mr. M. NARAGHI (Iran).

The Committee was composed of the Delegations of the following States : Argentina, Australia, Austria, Denmark, Finland, Iran, Italy, Nigeria, Philippines, Spain, Tunisia, Yugoslavia.

2. In accordance with Rule 10(1) of the Rules of Procedure, the Committee examined the credentials, full powers, letters and other documents referred to in Rules 6 and 7 of the Rules of Procedure, which had been communicated to the Secretary General of the Conference.

3. It was understood that where credentials conferred a general right of representation or participation it was for the head of the delegation to determine whether this implied all the prerogatives deriving therefrom, up to and including the right to sign.

4. The Credentials Committee submits the following report to the Plenary :

#### States Members of the Paris Union

5. The Committee recognized documents received from the Delegations of the States listed below as valid credentials and full powers, subject to paragraph 3 of this report : Algeria, Australia, Belgium, Brazil, Canada, Cyprus, Denmark, Finland, France, Germany (Federal Republic), Greece, Holy See, Iran, Ireland, Italy, Japan, Liechten-

stein, Luxembourg, Monaco, Netherlands, Norway, Philippines, Romania, South Africa, Spain, Sweden, Switzerland, Togo, United Arab Republic,<sup>1</sup> United Kingdom, United States of America, Yugoslavia.

6. The Committee recognized that the Delegations of the following States are authorized to sign the Final Act : Argentina, Austria, Cuba, Nigeria, Tunisia.

7. The Committee noted that the Delegation of the following State is attending in the capacity of observer : Turkey.

#### States not Members of the Paris Union (Observers)

8. The Committee noted that letters of appointment in conformity with Rule 7(1) of the Rules of Procedure had been presented by the Delegations of the following non-member States (Observers) : Burundi, China (Republic of).

#### Intergovernmental and International Non-Governmental Organizations (Observers)

9. The Committee noted that the appointment of the representatives of the following organizations have been made in conformity with Rule 7(2) of the Rules of Procedure :

*Intergovernmental Organizations* : African and Malgasy Industrial Property Office, European Free Trade Association, International Patent Institute, United Nations Conference on Trade and Development.

*International Non-Governmental Organizations* : Asian Patent Attorneys Association, International Chamber of Commerce, International Federation of Inventors' Associations, International Federation of Patent Agents, Pacific Industrial Property Association, Union of European Patent Agents, Union of Industries of the European Community

IPC/DC/38 March 19, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### Corrigendum to document IPC/DC/9

*Editor's Note : This document contains the text of the Corrigendum to document IPC/DC/9. It has not been reproduced because the proposed changes have been inserted, for the purpose of publication, in document IPC/DC/9.*

IPC/DC/39 March 22, 1971 (Original : English/French)

MAIN COMMITTEE

#### Draft Strasbourg Agreement Concerning the International Patent Classification

*Editor's Note : This document contains the complete text of the Strasbourg Agreement Concerning the International Patent Classification as submitted to the Plenary. There is no difference between the English text of the Draft and the signed text of the Agreement published below, see p. 165*

<sup>1</sup> *Editor's Note* : This State has since changed its name ; at the time of publication of these Records it is designated as "Egypt".

IPC/DC/40 March 22, 1971 (Original : English/French)

MAIN COMMITTEE

**Draft Final Act of the Strasbourg Diplomatic Conference on the International Patent Classification**

Editor's Note : *This document contains the complete text of the Draft Final Act, as submitted by the Main Committee to the Plenary. There is no difference between the English text of the Draft Final Act and the signed text of this Final Act, see below, p. 179*

IPC/DC/41 March 22, 1971 (Original : English/French)

MAIN COMMITTEE

**Draft Recommendations Concerning the International Classification**

Editor's Note : *This document contains an Introductory Note and, in three Annexes, the complete texts of the Draft Recommendations concerning the International Patent Classification, as submitted to the Plenary. In the following, only the text of the Introductory Note is indicated and the difference between the English text of the Draft Recommendations and the adopted text of these Recommendations published below, see p. 181*

1. *The Introductory Note in document IPC/DC/41 read :*

1. With the signature of the Strasbourg Agreement concerning the International Patent Classification, the administration of that Classification will enter into a new phase.

2. In order to take into account the new situation, the two draft recommendations contained in Annexes I and II to this document are submitted to the Conference.

3. Furthermore, a draft recommendation concerning the exchange of concordance tables and lists of patent documents reclassified according to the International Patent Classification, presented by the Delegation of Romania, is submitted to the Conference. [...]

2. *In the adopted text of the Recommendation concerning the Exchange of Lists of Patent Documents Reclassified According to the International Patent Classification, in the penultimate paragraph, the words "patent documents as such or documents relating to inventors' certificates" are replaced by: patents, inventors' certificates*

IPC/DC/42 March 22, 1971 (Original : French)

MAIN COMMITTEE

**Draft Report**

Editor's Note : *This document contains the complete text of the Draft General Report as submitted by the Rapporteur General to the Plenary. There is no difference between the*

*English text of the Draft and that of the report as adopted by the Conference and published below, see p. 141*

IPC/DC/43 March 24, 1971 (Original : English/French)

**Strasbourg Agreement Concerning the International Patent Classification**

Editor's Note : *This document contains the complete text of the Strasbourg Agreement Concerning the International Patent Classification, as adopted by the Conference, on March 24, 1971 ; see below, p. 165*

IPC/DC/44 March 23, 1971 (Original : English/French)

**Recommendations Concerning the International Patent Classification**

Editor's Note : *This document contains the complete text of the Recommendations Concerning the International Patent Classification, as adopted by the Conference on March 24, 1971 ; see below, p. 181*

IPC/DC/45 March 22, 1971 (Original : French)

**General Report**

Editor's Note : *This document contains the complete text of the final version of the General Report, as adopted by the Conference on March 24, 1971 : see below, p. 141*

IPC/DC/46 March 24, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

**List of Signatory Countries of the Strasbourg Agreement and of the Final Act of the Conference**

I. *Signatory Countries of the Strasbourg Agreement Concerning the International Patent Classification : Belgium, Denmark, Finland, Germany (Federal Republic), Greece, Holy See, Italy, Liechtenstein, Luxembourg, Norway, Spain, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia.*

II. *Signatory Countries of the Final Act of the Conference : Algeria, Argentina, Australia, Austria, Belgium, Brazil, Denmark, Finland, France, Germany (Federal Republic), Greece, Holy See, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Philippines, Romania, South Africa, Spain, Sweden, Switzerland, Togo, United Kingdom, United States of America, Yugoslavia.*

# CONFERENCE DOCUMENTS OF THE INFORMATION "IPC/DC/INF" SERIES

(IPC/DC/INF/1 to IPC/DC/INF/10)

## LIST OF DOCUMENTS

<i>No.</i>	<i>Submitted by</i>	<i>Date and original language of the document</i>	<i>Subject</i>
1	Secretariat General of the Council of Europe, WIPO	June 25, 1970 (E)	Information on documents mentioned in document IPC/DC/2
2	Secretariat General of the Council of Europe, WIPO	January 15, 1971 (E and F)	General Information
3	Secretariat of the Conference	March 13, 1971 (E and F)	Provisional list of participants
4	Secretariat of the Conference	March 13, 1971 (E and F)	List of documents
5	Secretariat of the Conference	March 15, 1971 (E and F)	Officers of the Conference ; Members of the Credentials Committee and Drafting Committee
6	Secretariat of the Conference	March 16, 1971 (E and F)	List of documents (Revision of document IPC/DC/INF/4)
7	Secretariat of the Conference	March 17, 1971 (E and F)	Provisional List of Participants (Revision of document IPC/DC/INF/3)
8	Secretariat of the Conference	March 18, 1971 (E and F)	List of documents (Revision of document IPC/DC/INF/6)
9	Secretariat of the Conference	March 22, 1971 (E and F)	Corrigenda and Addenda to the Provisional List of Participants (Revision of document IPC/DC/INF/7)
10	Secretariat of the Conference	March 21, 1971 (E and F)	List of documents (Revision of document IPC/DC/INF/8)

## TEXTS OF DOCUMENTS

(IPC/DC/INF/1 to IPC/DC/INF/10)

**IPC/DC/INF/1** June 25, 1970 (Original : English)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**Information on documents mentioned in document IPC/DC/2**

Editor's Note : *This document contained information on where documents mentioned in document IPC/DC/2 might be obtained. It has not been reproduced.*

**IPC/DC/INF/2**

January 15, 1971 (Original : English/French)

SECRETARIAT GENERAL OF THE COUNCIL OF EUROPE, WIPO

**General Information**

*General Information*

1. The Committee of Ministers of the Council of Europe and the Executive Committee of the Paris Union for the Protection of Industrial Property have decided to hold a Diplomatic Conference with a view to negotiating and concluding an Agreement Concerning the International Patent Classification.

2. The Conference will open on March 15, 1971 at 11 a.m. and continue until March 24, 1971. It will be held in the hemicycle of the Maison de l'Europe. [...]

3. It is expected that the Agreement will be signed at the close of the Conference and will remain open for signature until such date as the Conference may determine.

*Agenda and Documents*

4. The Conference will adopt its own agenda. A draft agenda has been suggested by the two host Organizations (see document IPC/DC/1).

5. To date the Secretariat of the Council of Europe and the World Intellectual Property Organization have drawn up the following two documents :

(a) Draft Strasbourg Agreement Concerning the International Patent Classification (document IPC/DC/2) ;

(b) Draft Rules of Procedure for the Strasbourg Diplomatic Conference (document IPC/DC/3).

The former document, available in English, French and Spanish, will form the basis for the proceedings of the Conference. The latter document is available in English and French.

6. Any delegation which has a text it wishes to be distributed as a Conference document is asked to submit it in English or French to the Secretary General of the Conference.

*Membership*

7. The States party to the Paris Convention for the Protection of Industrial Property (Paris Union), which include all the member States of the Council of Europe, have been invited to send delegates to the Conference.

8. Several other States and a number of international organizations have been invited to send observers.

9. In all, 134 States, 12 intergovernmental organizations and 12 international non-governmental organizations have been invited to send representatives.

10. Only delegations from member States of the Paris Union will be entitled to vote at the Conference.

*Credentials*

11. Credentials are discussed under Articles 6 and 8 of the Draft Rules of Procedure (see document IPC/DC/3).

12. The Credentials should state the names of all members of the delegation. They may be sent before the Conference begins to the Secretariat of the Diplomatic Conference, Maison de l'Europe, Avenue de l'Europe, 67—Strasbourg (France) or presented when delegations register on March 15, 1971.

*Registration*

13. Official participants (States and international organizations attending on invitation) should register on Monday, March 15, 1971, from 8 a.m. onwards, at the reception point in the main hall of the Maison de l'Europe (entrance Avenue de l'Europe).

14. Passes will be issued to participants on registration and must be shown when entering the Maison de l'Europe.

15. Every participant will also receive, on registration, a badge bearing his name and the name of the State or international organization which he represents. Participants are requested to wear their badges when on the Conference premises.

*Secretariat*

16. The Secretariat will consist of a joint staff placed at the disposal of the Conference by the Secretary General of the Council of Europe and the Director General of the World Intellectual Property Organization. A list of its members will be provided.

*Opening Meeting*

17. The inaugural meeting will be held in the hemicycle of the Maison de l'Europe on Monday, March 15, 1971 at 11 a.m. It will be open to the press and the public.

18. The meeting will be opened by Mr. Lujo Toncic-Sorinj, Secretary General of the Council of Europe. Mr. G. H. C. Bodenhausen, Director General of WIPO, will give an address.

19. The Conference will then elect its Chairman, thereafter adopt its agenda and rules of procedure and elect its Vice-Chairmen, Secretary General and Rapporteur General and members of its Credentials Committee and Drafting Committee and their Bureaux.

#### *Organization of Proceedings*<sup>1</sup>

20. The Conference will open and close in Plenary Assembly.

21. The bulk of the proceedings will take place in the Main Committee, which is to prepare the draft. For this purpose the Plenary Assembly will be transformed into Main Committee, which will meet in the hemicycle.

22. All delegations entitled to vote will be members of the Main Committee.

23. Observers may participate in the work of the Plenary Assembly and the Main Committee but will not in general be admitted to other meetings.

24. The Credentials Committee and the other committees and working groups will meet outside the hours when the Plenary Assembly and Main Committee are sitting.

25. Meetings of the Plenary Assembly and Main Committee will be public. Persons wishing to attend should ask the reception point in the main hall for entrance cards.

26. The meetings of the Credentials Committee and other committees and working groups will be private.

#### *Interpretation*<sup>1</sup>

27. There will be simultaneous interpretation into English, French, Spanish and Russian at meetings of Plenary Assembly and Main Committee. As a rule, interpretation at other meetings of the Conference will be only into English and French.

#### *Languages of Documents*<sup>1</sup>

28. Documents drawn up during the Conference will be in English and French.

<sup>1</sup> Subject to adoption of the draft Rules of Procedure.

**IPC/DC/INF/3** March 13, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **Provisional List of Participants**

*Editor's Note : This document contained a provisional list of States and intergovernmental and international non-governmental organizations participating in the Conference. It has not been reproduced. For the full list of participants in the Conference, see p. 17.*

**IPC/DC/INF/4** March 13, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **List of Documents**

*Editor's Note : This document contained a list of the documents of the Conference published as of March 13, 1971. It has not been reproduced. For the full list of documents, see pages 27 and 93.*

**IPC/DC/INF/5** March 15, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **Officers of the Conference ; Members of the Credentials Committee and Drafting Committee**

*Editor's Note : This document contained a list of Officers and members of the Credentials Committee and Drafting Committee. It has not been reproduced. For the full list of Officers of the Conference, see p. 23.*

**IPC/DC/INF/6** March 16, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **List of Documents (Revision of document IPC/DC/INF/4)**

*Editor's Note : This document contained a list of the documents of the conference published as of March 16, 1971. It has not been reproduced. For the full list of documents, see pages 27 and 93.*

**IPC/DC/INF/7** March 17, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **Provisional List of Participants (Revision of document IPC/DC/INF/3)**

*Editor's Note : This document contained a provisional list of States and intergovernmental and international non-governmental organizations participating in the Conference. It has not been reproduced. For the full list of participants in the Conference, see p. 17.*

**IPC/DC/INF/8** March 18, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

#### **List of Documents (Revision of document IPC/DC/INF/6)**

*Editor's Note : This document contained a list of the documents of the Conference, published as of March 18, 1971. It has not been reproduced. For the full list of documents, see pages 27 and 93.*



**IPC/DC/INF/9** March 22, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

**Corrigenda and Addenda to the Provisional List of Participants (Revision of document IPC/DC/INF/7)**

*Editor's Note : This document contained the corrigenda and addenda to the provisional list of participants in the Conference (document IPC/DC/INF/7). It has not been reproduced. For the full list of participants in the Conference, see p. 17.*

**IPC/DC/INF/10** March 21, 1971 (Original : English/French)

SECRETARIAT OF THE CONFERENCE

**List of Documents (Revision of document IPC/DC/INF/8)**

*Editor's Note : This document contained a list of the documents of the Conference published of as March 21, 1971. It has not been reproduced. For the full list of documents, see pages 27 and 93.*

# **SUMMARY MINUTES**



## PLENARY OF THE CONFERENCE

*Chairman* : Mr. F. SAVIGNON (France)

*Rapporteur General* : Mr. J. VOYAME (WIPO)

*Secretary General of the Conference* : Mr. R. MULLER (Council of Europe)

### FIRST MEETING

Monday, March 15, 1971, 11 a.m.

#### OPENING OF THE CONFERENCE

1.1 Mr. TONCIC-SORINJ (Secretary General of the Council of Europe), opening the Conference, said that the Council of Europe had always paid particular attention to the question of patents. In 1949 the European Parliamentarians had recommended the creation of a common European Patent Office. A Committee of Governmental Experts from all member States had been set up to study the question in more detail. This body became a Permanent Committee of Experts on Patents to which were entrusted all questions of industrial property.

1.2 The Committee agreed that it was advisable to undertake gradual harmonization of the patent legislation of various States before attempting to create a joint office. To achieve such harmonization three Conventions were worked out by the Council of Europe : first, the "European Convention Relating to the Formalities Required for Patent Applications," signed on December 11, 1953 ; second, the "European Convention on the International Classification of Patents for Invention," signed on December 19, 1954 ; third, the "Convention on the Unification of Certain Points or Substantive Law on Patents for Invention," dated November 27, 1963. The last Convention, which was signed by 11 member States of the Council of Europe, was not yet in force but nevertheless had already played an important role in international patent law. Precise definitions had been included in the Patent Cooperation Treaty and also in the draft European Patent Convention.

1.3 The use of the same Classification in Patent Offices was a necessary prerequisite for any more comprehensive international cooperation on patents. The completion of the International Patent Classification had been achieved by the Council of Europe only after many years of work. The system was based on the old German Patent Classification, which was also the basis of most patent classification systems in both Western and Eastern Europe.

1.4 At a meeting of the Committee of Experts on Patents in November 1967 a complete Classification was approved, and Catchword Indexes in English, French and German were under preparation. The Committee expressed the view that it was necessary to give the Classification a more universal character and suggested that a study on these lines should be made in collaboration with WIPO.

1.5 As a result, the Council of Europe and WIPO agreed to a joint program of action and decided to set up a Joint ad hoc Committee on the International Patent Classification. This would continue in operation until the new arrangements which were to be discussed by the present Conference were brought into force.

1.6 A Draft Agreement had been presented to the Conference. It was to be recalled that the new arrangements should satisfy three conditions : firstly, that the International Classification should continue to apply effectively ; secondly, that the basic structure of the Classification should not be altered, although the system would be constantly perfected ; and thirdly, that the new instrument should lead to a broadening of the geographical scope of the Convention.

1.7 The Council of Europe looked forward to the entry into force of the new Agreement which would be a demonstration of the success achieved by the Council in drawing up the International Patent Classification, which had been adopted all over the world.

2.1 Mr. BODENHAUSEN (Director General of WIPO) expressed his thanks to the Council of Europe, which had organized the Diplomatic Conference in collaboration with WIPO and had completed the long and exacting task of elaborating the International Patent Classification. Specialists were aware of its importance : in order that the enormous volume of documents submitted to them might be used, it was necessary that they be carefully and precisely classified, and that they be readily accessible.

2.2 Many countries had already introduced their own classifications. Yet there were differences between the classifications of the various countries which gave rise to obvious drawbacks, since not even the best-equipped national Patent Offices could ever have the required number of specialists at their disposal. The International Classification made it possible to remedy this situation, since the same symbols would be applied in all countries.

2.3 The determination with which the drafting was carried on was all to the credit of the Council of Europe. The Classification established by it was already applied in some fifty countries. For this very reason, however, it could not remain the prerogative of European countries, which at present had supreme power of decision with regard to the additions and amendments considered necessary. In future all countries using the Classification should be allowed to take part in those decisions. To this end the Council of Europe and WIPO had worked on a Draft Agreement which was now the subject of the present Conference. Under the Agreement not only member countries of the Council of Europe but also those of WIPO would have at their disposal a working instrument to which the countries of the Council of Europe, and the Secretariat General of that Organization, had devoted long and persistent efforts as well as considerable amounts of money.

2.4 Until the Strasbourg Agreement was in force, the Committee of Experts of the Council of Europe would remain competent to amend and add to the International Classification. Already, however, profitable cooperation had been initiated, since decisions were prepared by a Joint Committee in which as many non-member as member

countries of the Council of Europe were represented. It was in the common interest that the International Classification, originally European, should become universal.

#### ELECTION OF THE CHAIRMAN OF THE CONFERENCE

3. Mr. TONCIC-SORINJ (Secretary General of the Council of Europe) asked for nominations for the post of Chairman.

4. Mr. TREZISE (United States of America) supported by Mr. STAMM (Switzerland), Mr. NARAGHI (Iran), Mr. VON KELLER (Germany (Federal Republic)) and Mr. CABRAL DE MELLO (Brazil), proposed Mr. Savignon (France) as Chairman.

5.1 Mr. TONCIC-SORINJ (Secretary General of the Council of Europe) proposed that the election of the Chairman of the Conference be made by acclamation.

5.2 He noted that *Mr. Savignon was elected Chairman of the Conference*, and invited him to take the chair.

6. The CHAIRMAN expressed his sincere thanks to the members of the Conference, on behalf of his country, for the honor bestowed on it through him, and also on his own behalf. Enormous progress had been achieved in recent years in the development of cooperation and the improvement of the world industrial property system, for the benefit of all countries, and developing countries in particular. Admittedly all the necessary structures were not yet established, but the International Patent Classification was already usable and had considerable practical importance. Owing to the influence of patents on industrial development and competition, States were obliged to control the conditions under which they were granted and the manner in which they were worked. While it was difficult to determine at the international level the manner in which documents should be incorporated in national systems, it was clear on the other hand that the International Classification would provide all countries with an unparalleled system of technical documentation. It was important, therefore, to give universal scope to the regional Classification established by the Council of Europe. To achieve this end the Chairman appealed to the wisdom and experience of all. He welcomed the presence of the eminent specialists who had brought about the completion of the Draft Classifications. The Conference owed it to them to succeed, as it did to the researchers and inventors, whose right it was to have at their disposal an instrument of work worthy of their creative genius.

#### ADOPTION OF THE AGENDA

7. *The Draft Agenda (document IPC/DC/8) was adopted.*

#### ADOPTION OF THE RULES OF PROCEDURE OF THE CONFERENCE

8. *The Draft Rules of Procedure (document IPC/DC/3) were adopted.*

#### DESIGNATION OF THE RAPPORTEUR GENERAL AND THE SECRETARY GENERAL

9. The CHAIRMAN indicated that the Secretary General of the Council of Europe and the Director General of WIPO proposed the designation of Mr. Joseph Voyame as Rapporteur General and of Mr. Roland Muller as Secretary General of the Conference.

10. *It was so decided.*

#### ELECTION OF VICE-CHAIRMEN, MEMBERS OF THE CREDENTIALS COMMITTEE AND MEMBERS OF THE DRAFTING COMMITTEE

11. The CHAIRMAN recalled that, in accordance with Rule 43 of the Rules of Procedure, he might propose a list of candidates for all positions to which election was to be voted upon. He accordingly proposed the nomination of the Heads of the Delegations of the following countries as Vice-Chairmen of the Plenary: Brazil, Japan, Romania, Togo, United Kingdom, United States of America.

12. *This proposal was approved by acclamation.*

13. The CHAIRMAN proposed that the Credentials Committee be composed of the Delegations of the following countries: Iran (Chairman); Australia, Spain (Vice-Chairmen); Argentina, Austria, Denmark, Finland, Italy, Nigeria, Philippines, Tunisia, Yugoslavia (members).

14. *This proposal was approved by acclamation.*

15. The CHAIRMAN proposed that the Drafting Committee be composed of the Delegations of the following countries: Germany (Federal Republic) (Chairman); Algeria, Netherlands (Vice-Chairmen); Belgium, Canada, France, Sweden, Switzerland, United Kingdom, United States of America (members).

16. Mr. TAKANO (Japan) said that the Delegation of Japan wished to see one of its Delegates among the members of the Drafting Committee.

18. *The proposal of the Chairman, thus completed, was approved by acclamation.*

#### COMMUNICATION BY THE DIRECTOR GENERAL OF WIPO

19. Mr. BODENHAUSEN (Director General of WIPO) informed the Plenary that four members of the Paris Union for the Protection of Industrial Property had sent him a protest against the fact that the German Democratic Republic, which they considered to be a member of that Union, had not been invited to the Conference. Those countries were Bulgaria, Czechoslovakia, Poland and the Soviet Union. Mr. Bodenhausen had replied that he would communicate this protest to the Conference.

20. Mr. MARINETE (Romania), after having congratulated the Chairman on his election, endorsed the protest which had just been mentioned.

21. Mr. RODRIGUEZ PADILLA (Cuba) did the same.

22. Mr. BENDIFALLAH (Algeria) also endorsed the protest.

23. The CHAIRMAN said that the above observations would appear in the minutes.

#### ORGANIZATION OF THE WORK OF THE CONFERENCE

24. The SECRETARY GENERAL indicated that the Conference would meet in Main Committee that afternoon from 3 p.m. to 6 p.m. The Credentials Committee would meet the following day, March 16, at 9 a.m. The Secretariat of the Main Committee would be provided by Mr. Pfanner and that of the Credentials Committee by Mr. von Holstein.

*The meeting rose at 12 noon*

## SECOND MEETING

Monday, March 22, 1971, 5.05 p.m.

## ORGANIZATION OF THE WORK OF THE CONFERENCE

25. The CHAIRMAN proposed that the Plenary Assembly examine, in the following order, the documents submitted to it: Report of the Credentials Committee (document IPC/DC/37), Draft Recommendations Concerning the International Patent Classification (document IPC/DC/41), Draft General Report (document IPC/DC/42), Draft Strasbourg Agreement (document IPC/DC/39) and Draft Final Act (document IPC/DC/40).

26. *It was so decided.*

REPORT OF THE CREDENTIALS COMMITTEE  
(document IPC/DC/37)

27. The CHAIRMAN noted that there were no observations.

28. *The Report of the Credentials Committee was adopted.*

DRAFT RECOMMENDATIONS CONCERNING THE INTERNATIONAL PATENT CLASSIFICATION  
(document IPC/DC/41)

29. The CHAIRMAN pointed out first that, owing to the decisions taken that morning, the words "of concordance tables and" should be deleted in point 3 of the introductory note.

30. *It was so decided.*

31. Mr. HENSHILWOOD (Australia) asked whether the word "adapting" appearing at the end of Annex I should not read "adopting."

32. The CHAIRMAN replied that the English word "adapting" and the French word "adapter" corresponded closely to the idea which was meant to be conveyed. Indeed the decisions had already been adopted, and all that was now required was to make possible their adaptation.

33. *The Draft Recommendation Concerning the IPC Administration (Annex I) was adopted.*

34. *The Draft Recommendation Concerning the Financing of the IPC Administration (Annex II) was adopted.*

35. Mr. RODRIGUEZ PADILLA (Cuba) regretted that the title of the Draft Recommendation contained in Annex III mentioned only patent documents when other documents might be involved, such as inventors' certificates, etc. If it was too late to amend the title in an open meeting, perhaps the Chairman could do so later.

36. Mr. BODENHAUSEN (Director General of WIPO) replied that this did not seem necessary to him, the text of the Recommendation being perfectly clear in that it specified: "whether these lists comprise patent documents as such or documents relating to inventors' certificates, utility models, utility certificates or applications for the said kinds of protection."

37. The CHAIRMAN considered that this reply should satisfy the Delegate of Cuba.

38. Mr. BOUZIDI (Algeria) would have liked to see the words "as such" ("proprement dits") removed from the phrase which Mr. Bodenhausen had just quoted. To him they seemed to establish a hierarchy in favor of patents.

39. The CHAIRMAN did not think that the words established any hierarchy between patents and the other documents. Neither did he see any possible objection to the deletion of "as such." At the suggestion of the Secretary General, he proposed the addition, in the French text, of the words "d'invention" after the word "brevets."

40. *It was so decided.*

41. Mr. MAST (Germany (Federal Republic)), referring to the fifth paragraph of the Preamble, emphasized the importance placed by the Delegation of the Federal Republic of Germany on the reclassification of patent documents in as many countries as possible.

42. *The Draft Recommendation Concerning the Exchange of Lists of Patent Documents Reclassified According to the International Patent Classification, thus amended, was adopted.*

## DRAFT GENERAL REPORT (document IPC/DC/42)

43. The CHAIRMAN proposed to the Plenary that the amendments made that morning by the Main Committee be considered first and the remainder of the Report afterwards.

44. The RAPPORTEUR GENERAL pointed out that, in paragraph 13 of the Draft Report, the date on which the Secretary General of the Council of Europe and the Director General of WIPO sent out invitations to the Strasbourg Conference had been deleted.

45. *Paragraph 13 was adopted in its new form.*

46. The RAPPORTEUR GENERAL then indicated that the words "in a spirit of universality" had been added in paragraph 26.

47. *Paragraph 26 was adopted in its new form.*

48. The RAPPORTEUR GENERAL said that, in the first sentence of paragraph 54, it had been specified that the observers in question were referred to not only in Article 5(2)(a) but also in Article 5(2)(b).

49. *Paragraph 54 was adopted in its new form.*

50. The RAPPORTEUR GENERAL said that the first sentence of paragraph 60 had been slightly altered and that a second sentence had been added in which it was stated that some Delegations had remarked on the shortness of the period after which amendments entered into force.

51. *Paragraph 60 was adopted in its new form.*

52. The RAPPORTEUR GENERAL indicated that the drafting of paragraph 85 had been adapted to the new text of the third Recommendation.

53. *Paragraph 85 was adopted in its new form.*

54.1 The CHAIRMAN invited Delegations which so desired to present their observations on the General Report as a whole.

54.2 He noted that the General Report gave rise to no further observations.

55. *The General Report (document IPC/DC/42) was adopted as a whole.*

DRAFT STRASBOURG AGREEMENT CONCERNING  
THE INTERNATIONAL PATENT CLASSIFICATION  
(document IPC/DC/39)

56. The CHAIRMAN asked the Rapporteur General to indicate the amendments made that morning by the Main Committee.

57. The RAPPORTEUR GENERAL said that, in Article 4(3) *in fine* of the French text, the word "donnés" had been made to agree not with the word "classification" but with the word "symboles." In Article 6 of the English text, the three commas had been removed, and Article 15(1) began, in the English and French texts, with the words "Any country of the Special Union..." and "Tout pays de l'Union particulière..." respectively.

58. The CHAIRMAN, considering the special importance of the Draft Agreement, proposed to the Plenary to proceed Article by Article.

59. *The Preamble was adopted.*

60. *Articles 1 to 17 were successively adopted.*

61. Mr. PHAF (Netherlands) pointed out that, since in the French text of Article 4 the word "donnés" agreed with the word "symboles," the same should apply to paragraph 40 of the General Report.

62. The RAPPORTEUR GENERAL acknowledged the validity of this remark and proposed that the French version of the last sentence of paragraph 40 be drafted as follows: "La Conférence a considéré qu'on pouvait, dans ces conditions, parler des symboles complets de la classification donnés à l'invention."

63. The CHAIRMAN, after having noted this amendment of form, invited the Delegations to verify the indication of signatures appended to the text of the Agreement and, if there were any changes to be made, to inform the Secretariat of the Conference accordingly.

DRAFT FINAL ACT CONCERNING THE INTERNATIONAL PATENT CLASSIFICATION  
(document IPC/DC/40)

64. *The Draft Final Act was adopted.*

65.1 The CHAIRMAN asked the Delegations to verify the indication of signatures.

65.2 After having noted that no further items remained on the agenda, he indicated that the Secretariat of the Conference wished to know which Delegations proposed to sign the text of the Agreement, on the assumption that all proposed to sign that of the Final Act. He asked the Delegations which did not intend to sign these documents to inform the Secretariat of the Conference accordingly, in order that the signing ceremony might be as well organized as possible.

65.3 He expressed his thanks for their cooperation to those of the Delegates who would be leaving Strasbourg before Wednesday, March 24.

*The meeting rose at 5.40 p.m.*

THIRD MEETING

Wednesday, March 24, 1971, 10.10 p.m.

CLOSING OF THE CONFERENCE

66. The CHAIRMAN began by announcing that documents IPC/DC/43, 44 and 45 and IPC/DC/PV/9 and 10<sup>1</sup> had just been distributed. He then invited the members of Delegations who so desired to take the floor and give their conclusions on the Conference.

67.1 Mr. NORDSTRAND (Norway) on behalf of the Nordic countries, Denmark, Finland, Sweden and Norway, expressed satisfaction with the result of the Conference. The Nordic countries had already been using the International Patent Classification for some years and had full confidence in the IPC as an efficient tool for informational purposes.

67.2 The aim of the Conference had been to adopt an Agreement with the same universal character as the International Patent Classification itself. The Conference had been a success. The member States of the Paris Union would have in the International Classification a valuable gift which had to be used in the best possible way, and it was up to all nations to do so.

67.3 Mr. Nordstrand expressed warm thanks to the experts, some of whom were present at the Conference, who for many years had performed a tremendous amount of work to create the existing International Patent Classification. He concluded by thanking all those responsible for the Conference arrangements, the achievement of which represented a milestone in the history of international cooperation on patents. Last, but not least, he thanked the Chairman of the Conference, Mr. Savignon, for the excellent and charming way in which he had presided over the negotiations and whose efforts had contributed to a considerable degree to the good results which had been achieved.

68. Mr. ARCHI (Italy) said that his Delegation had been pleased to be present once again in these buildings, in which three Conventions had already been drawn up with a view to facilitating the harmonization of national laws and increasing the international protection of patents. He welcomed the new Agreement, which complemented the Treaty established at the Washington Conference in 1970, in which the Delegation of Italy had also taken part. He said that his country was currently preparing a new law on industry to modernize its patent regulations, and that this work, though long and costly, would enable it to apply the new international system more effectively. In conclusion, he thanked the Secretary General of the Council of Europe and the Director General of WIPO for the masterly way in which they had organized the Conference, and the Chairman for the uprightness, flexibility and impartiality with which he had conducted the work and discussions.

69. Mr. BENDIFALLAH (Algeria) said that his Delegation had pleasure in offering its full support and in expressing its gratitude to the Council of Europe, for the cooperative spirit it had shown in convening and organizing the Conference, and to WIPO for the commendable measures which it had initiated during its many years of work for a cause which to a large extent conditioned the well-being of the human race. He thanked all those whose efforts had made a Conference on a technical subject into a pleasant work

<sup>1</sup> Editor's Note: Documents IPC/DC/PV/9 and 10, which were distributed during the Conference, contain, respectively, the summary minutes of the eighth meeting of the Main Committee and those of the second meeting of the Plenary of the Strasbourg Conference. They are reproduced on pages 133 and 101 of these Records.

meeting held in a relaxed atmosphere. In particular he thanked the Chairman for the tact and courtesy with which he had performed his duties, and which had enabled him to understand his country's sensitiveness on the subject of its independence. He was pleased that developing countries had been able to express their opinions and preoccupations and explain their difficulties, and that in future they would be able to take part in the amendment of the International Classification. He considered that the Agreement which had just been drawn up represented another step towards the shrinking of the gap separating the club of more fortunate countries from developing countries in that it provided the beginning of a solution to the problem of the transfer of technology to countries previously regarded as raw material reserves and exposed to the poverty caused by the deterioration of conditions of exchange. He said that the text of the Agreement, although differing from the original draft, was entirely satisfactory to his Delegation, which would report on the attention and goodwill shown it throughout the Conference.

70. Mr. ARMITAGE (United Kingdom) said that all the nations which had taken part in the Conference could congratulate themselves on producing a satisfactory and, he hoped, effective Agreement which had been negotiated in an excellent spirit. A debt of gratitude was owed to the Council of Europe for the smooth arrangements of the Conference. Thanks also were to be extended to the back-room personnel who had been responsible for all the documentation. He added a special word of thanks to the interpreters who had done an excellent job. He thanked the Rapporteur General for producing an excellent report. Finally, he congratulated the Chairman on having skilfully performed the task of presiding over the Conference proceedings in a courteous and efficient manner.

71.1 Mr. VON KELLER (Germany (Federal Republic)) stated that during the opening session of the Conference his Delegation had underlined the importance of the Conference to international cooperation in regard to patents. It had stressed the fact that the worldwide application of a uniform classification was the prerequisite for effective implementation both of the existing Patent Cooperation Treaty and of existing and planned Conventions and Agreements to establish regional patent systems. The Agreement on the International Patent Classification was intended to give developing countries a start in building up national patent-granting procedures. All present at the Conference could note with satisfaction that these objectives had been reached under optimum conditions.

71.2 The Agreement which was now open for signature would make it possible for all member States of the Paris Union to cooperate on an equal footing in the further development of the International Patent Classification. This would ensure that, in the long term, the International Patent Classification would be the essential classification within the PCT system. The adaptation and adjustment of the Agreement to the special needs of developing countries had been strengthened and reinforced by the inclusion of suitable provisions both in the Preamble and operative Articles.

71.3 The Agreement, which created an international vocabulary on patents, had been drafted so flexibly that it would be possible at any time to adapt it to technological progress.

71.4 Mr. von Keller said that warm thanks were due to the Council of Europe and to WIPO for their efforts towards making the Conference a success. The Council of Europe had done a great deal of work since 1954 and WIPO, in declaring itself ready to take over the principles of the European Convention, has made possible the application of the Classification on a worldwide basis. All nations could be assured that the future of the Agreement, adopted under the auspices of the Council of Europe and the World

Intellectual Property Organization, was in experienced hands.

71.5 A decisive factor in the success of the Conference had been the readiness of all Delegations to work together in such a way that they were always able to reach compromises. Having thanked the Chairman of the Conference for his wise and able guidance in all the deliberations, Mr. von Keller concluded by expressing gratitude to the Secretariat of the Conference and to the interpreters and translators for their laborious efforts often at late hours. He regarded the Agreement as a success and stated that the Delegation of the Federal Republic of Germany would sign without reservations.

72.1 Mr. TUULI (Finland) said he represented a small country with its own problems. Finland had its own language, a highly specialized industry and was passing through a period of intensive development. The Strasbourg Agreement would be most important to Finland since it created possibilities for cooperation with all countries by creating a new common language for publications and searches for patent documents. Although Finland had not been party to the European Convention, it had already been using the International Classification for a long time as a second classification, together with the German classification system. He hoped that the new Agreement would get rid of all the inconveniences involved in having a large number of different classification systems which were the cause of so much difficulty in searching and the examination of patent applications.

72.2 Mr. Tuuli expressed his gratitude to the countries of the European Convention which over fifteen years had developed a system which would be the basis of the International Patent Classification. He thanked WIPO for having discovered a method by which the International Classification could become common to all its member countries. It would combine the many compromise solutions which had been arrived at through the efforts of the Chairman of the Conference, and the skilful Draft Report prepared by the Rapporteur General. These joint efforts had given member countries all the necessary tools to carry out their future task. The Delegation of Finland accepted the Agreement and proposed to sign it. It hoped that the proposal by the Romanian Delegation and the recommendation of the Conference in regard to cooperation in reclassifying search material would be fulfilled since for the smaller countries such cooperation was of primary importance. It hoped that as many nations as possible would sign the Agreement.

73.1 Mr. STAMM (Switzerland) said that he wished to offer thanks to all those who had contributed to the success of the Conference: to the Council of Europe and the city of Strasbourg for their hospitality; to the Chairman, Mr. Savignon, for the skilful way in which he had presided over the meetings; to the Secretariat of the Conference for the excellent way in which it had accomplished its many tasks; and finally to all the Delegations represented at the Conference for the spirit of cooperation they had shown.

73.2 Nations represented at the Conference had shown themselves to be ready, in the interests of international cooperation, to make certain sacrifices in a wholehearted way and many useful results had been achieved. The Strasbourg Agreement should be regarded as one more stepping-stone towards the ultimate goal, which was the achievement of greater international cooperation and understanding between all nations. The Swiss Government had no objection to signing the Agreement and hoped soon to ratify it. He hoped that the Agreement would be followed by further international efforts on patents leading to ever closer and more fruitful cooperation.

74.1 Mr. WAHL (United States of America) expressed deep and sincere appreciation to the Council of Europe for



developing a worldwide International Patent Classification. He appreciated the efforts of the Secretariat of the Council of Europe and the Director General of WIPO in taking steps to make available to all members of the Paris Union, on a universal basis, a common system of patent classification.

74.2 The Delegation of the United States of America complimented the Chairman of the Conference for his excellent work. It also thanked the Secretariat and the translators for all their efforts in making the Conference a success. It looked forward to continued progress and cooperation on patents and all other forms of intellectual property.

75. Mr. ABE (Japan) expressed heartiest congratulations to the Chairman for the remarkable way in which he had conducted the Conference in the accomplishment of its difficult and important task; his wise and able chairmanship had been the object of great admiration from all Delegations. He thanked Mr. von Keller, the Chairman of the Drafting Committee, for having achieved the task entrusted to that Committee and also expressed warm gratitude to Mr. Bodenhausen, Director General of WIPO, and his colleagues who had given to the Conference the benefits of their rich experience and ability.

76.1 Mr. HENSHILWOOD (Australia) congratulated the Secretary General of the Council of Europe and the Director General of WIPO on their joint efforts in arranging and conducting the Conference by means of which the Agreement had been successfully evolved. The Strasbourg Agreement had set out to express a spirit of universality. In spite of differing national outlooks with which various Delegations had approached the Conference, that spirit had been largely maintained both in discussions and in the terms of the Agreement.

76.2 All Delegations were grateful for the untiring efforts of the staff of the Council of Europe and of WIPO in communicating through documents the daily happenings of the Conference. In fact communication by the printed word had been almost as fast as communication by word of mouth.

76.3 The Australian Delegation was grateful for the hospitality which had been accorded. It was certain that delegates did not generally need any international treaty to recognize good hospitality since it could be understood in any language.

76.4 Finally, Mr. Henshilwood expressed the indebtedness of the Conference to the Chairman for the quiet good humor with which he had guided deliberations.

77. Mr. LAURELLI (Argentina) recalled that, at the Stockholm Conference, member countries of the Paris and Berne Unions had sought to follow the development of all aspects of intellectual property protection. Yet, for all their detail, the results of the Stockholm Conference did not meet fully the special needs of developing countries. The Strasbourg Agreement would represent a great step forward in that respect. As Mr. von Keller had pointed out, this document showed very special consideration for the needs of developing countries: the fact was mentioned even in the Preamble, and procedures had been provided for which would make application easier for those countries. Therefore, on behalf of the Delegation of Argentina and that of Brazil, Mr. Laurelli expressed his satisfaction with the agreement which had been reached. It was essential, as had been indicated in Chapter IV of the PCT, adopted at Washington, that a completely new form of cooperation be devised which enabled developing countries to benefit both from work carried out at the international level and from special agreements concluded on a bilateral basis. After having complimented the Chairman on the manner in which he had conducted the discussions and the Secre-

tariat of the Conference for its efficiency, Mr. Laurelli noted with satisfaction that the Conference had fully achieved its aims.

78. Mr. GALL (Austria), in turn, addressed his thanks to the Chairman and to the Secretariat of the Conference and expressed satisfaction with the success of the Strasbourg Conference.

79. Mr. DE SANTOVENIA (Spain) thanked the staff of WIPO for their excellent work and complimented the Chairman, Mr. Savignon, on his able handling of the meetings.

80.1 Mr. SLAVIN (Ireland) commented favorably on the organization of the Conference and thanked the Chairman, Mr. Savignon, for his tact and wisdom.

80.2 The Agreement represented the culmination of many years hard work. He thanked all Delegations attending the Diplomatic Conference for their understanding of Ireland's problems in the field of patent classification.

81. Mr. PHAF (Netherlands) expressed his thanks, on behalf of the Netherlands and the other Benelux countries, to the organizers of the Conference, and especially to the Chairman, whose way of directing discussions had been the object of admiration. He also thanked the staff of WIPO, which had dealt with every question with infinite patience. The Agreement did not give rise to any objections as far as the Netherlands were concerned. The fact that they were not signing it that day was due to a diplomatic rule which they had adopted, but it was more than probable that they would join the other signatories in due course.

82.1 Mr. BODENHAUSEN (Director General of WIPO) said that he was very touched by the kind words addressed to his Organization, and expressed his thanks to the Council of Europe for its excellent cooperation, to all the Delegates and to the Chairman of the Conference. Thanks to the constructive attitude which had been shown during the discussions, an extremely satisfactory result had been achieved.

82.2 WIPO was fully aware of the importance of the International Patent Classification, without which it would be difficult to conceive of genuine collaboration between countries in that field. The Classification would also be very useful to developing countries, and WIPO intended to devote all the attention that was desirable to its administration.

83. Mr. SFORZA (Deputy-Secretary General of the Council of Europe) thanked the Delegates for the kind words they had addressed to the Council of Europe. The Secretary General and himself were pleased to have been able to act as hosts and organizers of the Conference, in close collaboration with WIPO. The Council of Europe was proud of the work it had achieved in the field of international patent classification, and its future was now in good hands at WIPO. For its part, the Council of Europe would continue to be concerned with the problems it raised, in the interests of Europe and the world as a whole.

84.1 The CHAIRMAN said that the omens had been good during the preparation of the Conference which was coming to an end that day. The factual situation had preceded the legal, so to speak, in that a number of States already used the International Patent Classification. The universal calling of the Classification was evident, but it was still necessary that interested countries agree to abandon old habits and national systems, of which they no doubt had every reason to be proud. Thanks to the cooperation which had been established between the Council of Europe and WIPO, the Conference had been prepared under particularly favorable conditions, and its success was the reward for the effort undertaken. After having expressed his gratitude

to all those who had pioneered in the drafting of a Classification which made it possible to take full advantage of the knowledge and skills of the human race, the Chairman conveyed his thanks to the Committee of Experts for the quantity of work done by them over a period of many years. Unending praise was due to the Council of Europe for its exemplary attitude in the field of international collaboration. Its cooperation with WIPO was a testimony to its remarkable generosity: realizing that the creation to which it had devoted so much time and effort had been too successful for it to keep all the benefit for itself, it agreed to transfer it in its entirety to a world organization whose high reputation was familiar to all. The International Classification and the Agreement were in good hands. Indeed all the Delegates of member States of the Paris Union admired the astonishing achievements of BIRPI and WIPO under the direction of Mr. Bodenhausen and his collaborators. In future a large number of States would work together to perfect the ways of classifying inventions, and that was particularly important, for however good the Classification, it would become out of date, and a day would come when new systems would have to be substituted for it. It was important also that the application of the Agreement should be entrusted to WIPO: the task was an extraordinarily difficult one, but one undoubtedly within the capacities of that Organization.

84.2 Finally the Chairman thanked all those who had been instrumental in the success of the Conference. His post had enabled him to observe in the most direct way possible the quality of the work carried out by all the participants: his fellow-delegates, whose courtesy and clarity had eased the task of presiding over meetings; the Rapporteur General, the Secretary General and all the Council of Europe and WIPO team; and, last but not least, the interpreters, who had made it possible to overcome linguistic obstacles.

*The meeting was suspended at 11.15 p.m. and resumed at 11.35 p.m.*

#### SIGNATURE OF THE FINAL ACT AND OF THE STRASBOURG AGREEMENT

85. The CHAIRMAN announced the commencement, in the presence of the Secretary General of the Council of Europe and the Director General of WIPO, of the ceremony of signing the Final Act and the Agreement Concerning the International Patent Classification, known as the "Strasbourg Agreement."

86. *The following Delegations were called by name:*<sup>1</sup> South Africa, Algeria, Germany (Federal Republic), Argentina, Australia, Austria, Belgium, Brazil, Denmark, Spain, United States of America, Finland, France, Greece, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Norway, Netherlands, Philippines, Romania, United Kingdom, Holy See, Sweden, Switzerland, Togo, Yugoslavia.

87. *These Delegations were followed by:* the Chairman of the Conference, the Rapporteur General, the Secretary General, the Secretary General of the Council of Europe and the Director General of WIPO, who signed the authentic originals of the Classification.

88.1 The CHAIRMAN announced that the Strasbourg Diplomatic Conference on the International Patent Classification was at an end.

88.2 He wished all the Delegations a pleasant return to their countries.

*The meeting rose at 12 noon.*

<sup>1</sup> *Editor's Note:* In their French alphabetical order.



## MAIN COMMITTEE

*Chairman* : Mr. F. SAVIGNON (France)

*Rapporteur General* : Mr. J. VOYAME (WIPO)

*Secretary of the Main Committee* : Mr. K. PFANNER (WIPO)

### FIRST MEETING

Monday, March 15, 1971, 3.10 p.m.

#### ORGANIZATION OF THE WORK OF THE CONFERENCE

89.1 The CHAIRMAN reminded the Main Committee of the provisions of Rule 32 of the Rules of Procedure concerning amendment proposals. He asked members of Delegations to submit their amendment proposals as soon as possible, in order to avoid having to postpone discussion of most of the Articles until the last day of the Conference, which was of limited duration. For the same reason he asked them to be patient with those presiding over the meetings in cases where they availed themselves of the faculty provided for in the last paragraph of Rule 32 and allowed the discussion of proposals which had not been distributed the previous day.

89.2 The Chairman also indicated that, departing from the general rule according to which amendment proposals should be incorporated in new documents, those presiding over the meetings might consider as amendments certain passages from observations presented earlier by a number of Delegations, at the request of the latter.

89.3 The Chairman then said that most of the Delegations had seemed to want more time to consider the problem raised by document IPC/DC/10. He therefore proposed to the Main Committee that the discussion of that problem be postponed to the meeting on March 18.

90. *It was so decided.*

#### GENERAL OBSERVATIONS

91. The CHAIRMAN asked members of Delegations whether they wished to make general remarks on the documents.

92.1 Mr. HENSHILWOOD (Australia) expressed the gratitude of the Australian Government to the Council of Europe and WIPO for their invitation to take part in the Conference, and also to the host country for making available the meeting place at Strasbourg.

92.2 The member countries of the Paris Union which were not members of the Council of Europe were indebted to the Council of Europe for offering its own classification system known as IPC for incorporation in the Agreement. Although the countries of the world showed little inclination to adopt a universal language for the purpose of oral communication, the IPC of the European Convention already had a world appeal as a universal classification of the subject matter of patent documents. That was shown by its wide adoption as an additional indexing means to that of domestic classification. The Agreement which, it was hoped, would be formulated and completed at the Conference should spread that appeal and encourage more Paris Union member countries to use it in this manner.

92.3 In Australia and most Paris Union countries searches were still being conducted using domestic classification systems. As a member of the European Convention since 1958, Australia had been applying the IPC symbols as a secondary classification for the past thirteen years, but still searched according to its own domestic classification. The IPC would not fulfil its primary object to facilitate search as stated in the Guide published with the Classification<sup>1</sup> until use of the Classification by Paris Union countries took on the meaning not merely of use for the purpose of searching. As Australia saw the matter, that would not happen until each Paris Union country had sufficient confidence that the IPC was a far more efficient searching tool than its own. Confidence in the IPC as a searching tool would depend in part on the ability of Paris Union countries generally to influence the modification of the system and eliminate weaknesses.

92.4 Australia noted with approval the efforts of the Joint ad hoc Committee, through its working groups, to strengthen certain areas of the present Classification such as the part relating to chemistry, and to lay down guidelines for searching.

92.5 Whilst welcoming the opportunity the proposed Agreement offered to Paris Union countries generally to have a voice in the improvement of the IPC, it might not always be possible for Australia to send representatives to take part personally in meetings of working groups owing to its geographical remoteness from Europe. However, Australia hoped at least to communicate actively with written suggestions.

93. Mr. MOHSENI (Iran), on behalf of his Government, expressed his pleasure in taking part in the Conference, all the more so for its being held in Strasbourg, the crossroads of Europe. He wished it every success. After having complimented Mr. Bodenhausen and his collaborators on the efficiency with which BIRPI and WIPO worked, he observed that Paris Union countries were in need of an International Classification. Iran, for its part, was prepared to use the International Classification in the future; it had already taken the administrative steps to this end. It seemed desirable, however, to allow countries with a small number of patents to use only the sections and classes. This was what Iran intended to do, but it was possible that it might later need to make use of the subclasses and other categories.

94.1 Mr. VON KELLER (Germany (Federal Republic)) welcomed the fact that the Conference had been convened since it would be the prerequisite for application of the International Patent Classification at both a worldwide and a regional level. It was to be hoped that the proposed Agreement would be successful on a long-term basis since,

<sup>1</sup> *Editor's Note*: "Guide to the Use of the International Patent Classification"—see document IPC/DC/2, paragraphs 15, 17 and 18.

of the Classification were applied worldwide, it would mean a great saving in work and efforts for patent examiners, patent applicants and their representatives.

94.2 Mr. von Keller expressed appreciation to the Council of Europe and to WIPO for the hard and laborious work in preparing the impressive amount of documentation on the classification system.

94.3 An important point to be remembered was the fact that the European Convention on the International Classification of Patents of December 19, 1954, provided for States not members of the Council of Europe to accede to the Convention. Only a few States had availed themselves of this possibility. Worldwide recognition of the Convention could be achieved only if and when member countries of the Paris Union could cooperate on an equal basis in the further shaping and refinement of the system. On behalf of the Delegation of the Federal Republic of Germany Mr. von Keller extended a warm welcome to non-member countries.

94.4 The work of the Conference would contribute to uniform classification on a worldwide scale and much praise was due to the Council of Europe and WIPO and to their devoted staffs for the great amount of technical preparatory work which had gone into the Conference. He hoped that the work of the Conference would reach its objectives, and its efforts were greatly facilitated by the Draft Agreement which was before the Conference.

95. Mr. STAMM (Switzerland) recalled that his country had always been in favor of international cooperation in the field of industrial property, and had ratified the European Convention. Since January 1969 Swiss patents had been classified according to the international system down to subgroup level, and Switzerland therefore did not need to equip itself with a classification system of its own. Moreover, this decision was in accord with its desire to contribute to the development of international cooperation. In future States which used the same system would no longer be obliged to reclassify Swiss patent specifications for their own purposes. Finally, the handling of documents was much simpler when all States applied the same Classification and the same symbols. It was highly desirable, therefore, that the Classification worked out by the Council of Europe, which the Delegate of Switzerland complimented on its work, should acquire a really international scope. The difficulty arose from the fact that the requirements to which classification was subject varied from country to country: they were more stringent at Offices which processed large numbers of patents and milder at others, which above all needed a more systematic means of classification enabling them to handle documents more easily. Consequently it was for the Committee of Experts to find a way of meeting the needs of both categories of Offices. In addition the Classification had to follow the development of technology, although only the really necessary adjustments should be made, otherwise small or medium-sized Offices would be unable to apply such amendments as were made. Be that as it may, the draft submitted to the Conference had the full approval of the Swiss Government, which looked forward to seeing the International Patent Classification spread throughout the world.

96. Mr. ARMITAGE (United Kingdom) expressed his satisfaction with the Draft Agreement. He was grateful to the Council of Europe for its cooperation in the development of a wider patent classification framework, which should not be subject to continual changes.

97. Mr. PHAF (Netherlands) said that his Government was very pleased to welcome an Agreement which, by entrusting the International Bureau of WIPO with the Patent Classification, would enable it to be much more widely used throughout the world. He wished to pay tribute to the Council of Europe and to the experts who had successfully carried this not inconsiderable task.

98. Mr. TUXEN (Denmark) thanked the Council of Europe, on behalf of the Nordic countries, for the work it had done during the last fifteen years. He agreed with the principle of a broader Convention, having worldwide scope, and thought that the text proposed was acceptable although he would submit a few amendments later on.

99.1 Mr. TREZISE (United States of America) welcomed the successful past and present work in the patent field of the Council of Europe and of other regional European groupings such as the European Free Trade Association (EFTA) countries and the member countries of the European Communities, possibly culminating in a Diplomatic Conference on the European patent system in 1972 or 1973. The United States of America was following those negotiations with a great deal of interest. It also attached high importance to the Patent Cooperation Treaty.

99.2 The Delegation of the United States of America thought it desirable for all countries to participate in the proposed Agreement Concerning the International Patent Classification in order to adapt more easily to changes in modern technology.

100. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) supported the thanks expressed to the Council of Europe by other Delegations first for the creation of an International Patent Classification system and second for having allowed the system to be changed from regional to universal. In Spain the Classification had been applied since 1967. Spain was grateful for the work that had been done by the Council of Europe and had itself substituted the new Classification for the old one. Spain also wished to contribute to all efforts to facilitate the classification of patents. The entire classification was being translated, for the benefit of countries which wished to use a Spanish text.

101. Mr. SLAVIN (Ireland), supporting the thanks expressed to the Council of Europe and WIPO by other Delegations, felt that a special word of thanks was due from small countries like Ireland to those countries that had staffed the various working groups of the Council of Europe and the Joint ad hoc Committee. The small contribution made by such countries was dictated by limited resources and in no way reflected any lack of interest on their part.

102.1 Mr. ABE (Japan) said that he was convinced that the Conference would have a fruitful outcome under the wise and able chairmanship of Mr. Savignon to whom he pledged the full cooperation of the Japanese Delegation.

102.2 The preparatory work on the International Patent Classification carried out by WIPO and the Council of Europe had come to a fruitful culmination in the Diplomatic Conference.

102.3 In the expectation that the Japanese Patent Office will become one of the International Searching Authorities provided for in the Patent Cooperation Treaty, Japan naturally approved the basic concept and purpose of the Strasbourg Agreement, which was mainly aimed at facilitating search work. The adoption and use of the International Patent Classification on a worldwide basis would have the merit of facilitating the more extensive use of such documents and improving the quality of searches. Japan was prepared to contribute to an Agreement which had such far-reaching significance.

102.4 Referring to points of a general nature to which Japan attached importance, Mr. Abe said it would be most profitable if the IPC were applied to as many documents as possible. There should also be active international cooperation in the work of reclassifying of documents. He hoped the Conference would take into consideration the local conditions and different ways of life of each country.

102.5 The Draft Strasbourg Agreement was acceptable to Japan in principle. However, it had to be emphasized that the Agreement should be accepted as widely as possible among the nations in the light of international progress in patent administration.

103. Mr. HOFFMANN (Luxembourg) observed that, in document IPC/DC/9, his country was included among those which did not intend to use the International Patent Classification. However, while it was true that Luxembourg did not for the moment apply the Classification, it certainly intended to accede to the Agreement currently under discussion. This would no doubt give rise to technical problems, but Luxembourg intended to solve them with the collaboration of the International Patent Institute.

104. Mr. MARINETE (Romania) considered that the drafts which had been prepared provided a good discussion basis for the Conference. However, he drew attention to the universal calling of the projected Agreement: every effort should be made in order that this universality might become a living reality, and therefore the text of the Agreement as well as the instruments of ratification should be deposited with the Director General of WIPO and drafted in such a way as to eliminate all discrimination.

105. Mr. CABRAL DE MELLO (Brazil) expressed satisfaction with the arrangements made for the Conference. The Government of Brazil in principle supported the Draft Agreement. By widening the scope of the International Classification and allowing the participation of developing countries as full members, it represented an important measure of international cooperation. The Conference was taking place at a time when the Brazilian patent system was being modernized. The Brazilian Delegation hoped to be able to ratify the new Agreement and to utilize the International Classification in the very near future.

106. Mr. GALL (Austria) said that the Austrian Government recognized the great importance of the International Patent Classification and the Austrian Patent Office already applied the system. Austria was not party to the existing Convention since in case of ratification it would have been obliged to publish the text of the entire Classification in the official edition of Federal laws. The present Draft did not present that difficulty. He hoped that the Agreement would be adopted universally.

107. Mr. LABRY (France) said that the French Government was particularly interested in the joint efforts of the Council of Europe and WIPO, and had no doubt that this Conference, like the previous ones, would be crowned with success.

108. Mr. HAZELZET (Union of Industries of the European Community (UNICE)) said that his Organization had already sent general observations on the Draft to the Director General of WIPO and to the Secretary General of the Council of Europe. His Organization had been very pleased to be invited to the Conference. The experts in UNICE regarded the Draft Agreement as an extremely important document and felt that it would be of great value not only to Patent Offices but also to industry at large. The Agreement would mark a step forward in worldwide industrial collaboration.

109. Mr. SCHRÖDER (Pacific Industrial Property Association (PIPA)) said that his Association comprised seventy-five United States companies and seventy-five Japanese companies which were heavily involved in international activity. The Association endorsed the principle of the proposed Agreement on the Patent Classification. The establishment of the Special Union and the adaptation of the classification would be a worthwhile and practical step which would stimulate further progress in international collaboration on patents.

110. Mr. WAS (International Chamber of Commerce (ICC)) said that the ICC was in favor of the general idea of making the International Classification provided for in the European Convention into a worldwide Classification. He drew particular attention to the observations of the ICC

presented in document IPC/DC/4. These included a proposed solution similar to that of the Patent Cooperation Treaty (amendment of Article 5(2)(c) of the Draft Agreement to make it correspond to Article 56(2)(d) of the Patent Cooperation Treaty) which would enable international non-governmental organizations to take part in discussions concerning the International Patent Classification. This was particularly desirable in view of the fact that work in these two fields was expected to overlap to some extent. Although as observers the ICC did not have the right to propose amendments, Mr. Was hoped that the observations of the ICC contained in document IPC/DC/4 would be taken into consideration, and that it would be possible to bring about an amendment of the Draft Agreement on the initiative of one of the Delegations, which could make an amendment proposal on the lines of the ICC proposal.

111. Mr. MASSALSKI (International Federation of Patent Agents (FICPI)) expressed special thanks to the Council of Europe and WIPO for having invited his Organization to send an observer to the Conference. He said that patent agents wished to collaborate as closely as possible in the task of periodically revising the International Patent Classification, and that they placed themselves at the entire disposal of the Conference.

112. Mr. FINNISS (International Patent Institute (IIB)) indicated that the IIB already collaborated very closely in the work of the Council of Europe on the International Patent Classification, and that he hoped this collaboration might continue in the future.

113. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) thanked the Council of Europe and WIPO for having invited UNCTAD to the Conference, since UNCTAD was concerned *inter alia* with the problem of the transfer of technology to developing countries and with the restrictive business practices which could impede exports from such countries. He supported the work of the Conference and hoped that it would lead to further developments in the patent sphere throughout the world.

114. Mr. EKANI (African and Malagasy Industrial Property Office (OAMPI)) emphasized in turn the value of the Special Agreement, which would give worldwide scope to the Classification worked out by the Council of Europe. The Draft was very important to developing countries, as it helped them in the establishment of their own classification systems. On the other hand the growing number of Special Agreements placed more and more burdens on those countries. The Washington Conference had acknowledged this problem, and it would be as well in the new Agreement to draw inspiration from the provisions adopted in the Patent Cooperation Treaty. Moreover the application of the Classification called for specialized staff and financial means. It was advisable, therefore, to adopt a very flexible system which would enable developing countries to apply it gradually, as their circumstances permitted.

115. The CHAIRMAN thanked the speakers for all the encouragement they had just given, which provided the best possible incentive to persevere towards the solution of the difficulties which had yet to be surmounted. The remarks which they had made, all of which had been constructive in character, could in some cases at least be taken into consideration as amendments. In any event they would be an invaluable guide for future work. The Chairman invited Delegations which had amendment proposals to hand in to approach the Secretary General of the Conference. He hoped that written amendment proposals would be circulated as soon as possible, in order to facilitate the organization of debates.

*The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.*

DRAFT AGREEMENT (*document IPC/DC/2*)*Title and Preamble*

116. The CHAIRMAN proposed to the Main Committee that it proceed to the examination of the Draft Agreement contained in document IPC/DC/2. He asked whether the Delegates had any remarks to make on the Title and Preamble.

117. Mr. LAURELLI (Argentina) said that some countries wished to have some reference made in the Preamble to the interests of developing countries. They intended to make a proposal to this effect which they would hand in the following day.

118. *The Title and Preamble were reserved.*

*Article 1*

119. The SECRETARY GENERAL indicated that the Delegation of Norway had made a proposal concerning this Article but had not confirmed it in writing.

120. Mr. MODAL (Norway) said he required further time to discuss whether or not Norway would forward written proposals for amendments to the Draft Agreement.

121. Mr. BOWEN (United Kingdom) said that he had already forwarded a proposal that the word "single" in Article 1 be replaced by the word "common." Countries would thus be left free to use other classifications if they wished.

122. The CHAIRMAN considered this remark valid, however it concerned the English text only. No doubt the wisest thing to do would be to entrust the Drafting Committee with the task of ensuring that the two texts corresponded exactly.

123. Mr. LABRY (France), anxious to avoid any possibility of confusion, proposed the replacement in the French text of the words "une même classification" by "une classification commune."

124. Mr. CABRAL DE MELLO (Brazil) agreed that the substitution of "common" would be preferable.

125. Mr. PHAF (Netherlands) wished to know whether the wording of Article 1 was the same as in the Nice and Locarno Agreements.

126. Mr. BODENHAUSEN (Director General of WIPO) said that he had before him only the text of the Locarno Agreement, which used the words "une même classification." He did not think, however, that the adoption of the phrase "une classification commune" would give rise to difficulties.

127. Mr. RODRIGUEZ PADILLA (Cuba) asked what was to become of document IPC/DC/10, presented by the Soviet Union, which referred to the Preamble of the Agreement and raised the general question of the presentation of an International Patent Classification.

128. The CHAIRMAN reminded him of what he had said at the beginning of the meeting: this question would be dealt with on the Thursday morning, March 18.

129. Mr. MOHSENI (Iran) supported the amendment proposed by the Delegation of France.

130. Mr. LAURELLI (Argentina) also thought that, to avoid all ambiguity, the wording "une classification commune" was better.

131. The CHAIRMAN observed that the proposed amendment, which consisted in replacing "single" by "common" in the English text and "même" by "commune" in the French, was simply a matter of drafting. He proposed therefore to refer it to the Drafting Committee.

132. *It was so decided.*

133. Mr. NORDSTRAND (Norway) supported the substitution of "common" for "single."

134. Mr. BOWEN (United Kingdom) proposed as the second amendment to Article 1 the deletion of "Patent" in the phrase "International Patent Classification." The same point arose later in Article 4. The 1954 Convention used the phrase "International Classification" which had since then been used on United Kingdom patent specifications and in official periodicals. There appeared to be no justification for the change. The Agreement was modelled to a large extent on the Nice and Locarno Agreements. In the Locarno Agreement there was no reference to an "International Design Classification" and in the Nice Agreement there was no reference to an "International Goods and Services Classification."

135. The CHAIRMAN, for his part, considered the United Kingdom proposal interesting: the classification currently in preparation might well become a technology classification of general scope applying to documents other than patent publications.

136. Mr. RODRIGUEZ PADILLA (Cuba) supported the proposal of the United Kingdom Delegation.

137. Mr. BODENHAUSEN (Director General of WIPO) explained why the terms in the European Convention were not the same as those used in the documents submitted to the Conference: while there was only one Classification under the Council of Europe, there were three under WIPO. It was therefore necessary to specify the subject-matter.

138. Mr. LABRY (France) considered that the remark was valid for the Title of the Agreement but not for the Articles themselves, which could not give rise to any confusion.

139. Mr. KOELEWIJN (Netherlands) stated that several international classifications had already existed for some time, in particular the Universal Decimal Classification. The important difference was that the International Patent Classification was restricted to patents and was confined to technical matters and to searches for novelty rather than other kinds of search. He thought that it would be better to retain the term "International Patent Classification" in order to avoid misunderstanding between the different international classifications.

140. Mr. STAMM (Switzerland) declared himself to be in favor of maintaining the proposed text for Article 1.

141. Mr. BOWEN (United Kingdom) stated that his Delegation was not worried so much by Article 1 as by Article 4(5), which referred to "the symbols of the Classification, preceded by the words 'International Patent Classification,' or an abbreviation thereof ..." which "shall be printed in heavy type." He asked whether these words were to be printed on patent documents and whether there might be a possibility of confusion between the provision in the Article and other international classifications. Abbreviations were used by a number of countries and, for example, the abbreviation "Int. Cl." was generally agreed upon by many countries. He would press for amendment of Article 1 because of its relationship with Article 4, since the latter Article produced the main difficulty.

142. Mr. WAHL (United States of America) supported the proposal by the United Kingdom Delegation that the word "Patent" be omitted.

143.1 Mr. HAERTEL (Germany (Federal Republic)) preferred that the word "Patent" remain as it would make the meaning clearer to non-experts.

143.2 The Delegation of the Federal Republic of Germany did not share the objection of the United Kingdom Delegation concerning Article 4(5). It believed that an abbreviation was permissible and that practical difficulties would not arise.

144. Mr. SLAVIN (Ireland) supported the deletion of the word "Patent" occurring in the Title.

145. The CHAIRMAN asked the United Kingdom Delegate whether he wished to have the vote on Article 1 postponed until after the discussion of Article 4.

146. Mr. BOWEN (United Kingdom) said that this was not his wish.

147. The CHAIRMAN recalled that the United Kingdom amendment consisted in removing from Article 1 and from all Articles in which the same expression occurred the words "Patent" or "des brevets."

148. Mr. CABRAL DE MELLO (Brazil) drew attention to the decision to discuss document IPC/DC/10 on Thursday, March 18, and doubted whether the Main Committee was in a position to take a vote on Article 1 at the present time.

149. The CHAIRMAN pointed out that the proposal contained in document IPC/DC/10 was different from the one currently under discussion.

150. Mr. GALL (Austria) thought it preferable to defer discussion on the Title.

151. Mr. MARINETE (Romania) felt that the discussion of both proposals should be postponed to Thursday, March 18.

152. The CHAIRMAN noted that the United Kingdom Delegation accepted the postponement of discussion of its proposal to Thursday, March 18.

153. *It was so decided.*

#### *Article 2 (Definition of the Classification)*

154. *Paragraph (1)(a)(i) of Article 2 was adopted.*

155. The CHAIRMAN opened discussions on paragraph (1)(a)(ii).

156. Mr. WAHL (United States of America) proposed the deletion of the words "and additions" wherever they occurred in the Draft.

157. Mr. GALL (Austria) supported the United States proposal.

158. The CHAIRMAN asked whether any Delegations had other opinions to put forward.

159. Mr. PHAF (Netherlands) wished to be assured that the French word "modifications" had as broad a meaning as was required.

160. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) said the word "additions" was superfluous and unbalanced the phrase. The use of the term "additions" as well as the term "amendments" would imply a specific meaning. He therefore suggested the retention of "amendments" to cover all meanings.

161. Mr. GAJAC (France) said that the term covered additions and deletions as well as changes. However, he

seemed to remember that the text of the European Convention made a distinction between amendments and additions. This would be a reason for retaining the word "additions."

162. Mr. HAERTEL (Germany (Federal Republic)) said it was his impression that the Main Committee was discussing a substantive question and not that of the most appropriate wording. As to substance he believed, and hoped all the Delegations agreed, that amendment consisted, for example, in separating a subgroup from a certain group and placing it in another group, or in deleting a subgroup. He asked therefore whether the proposal of the Delegation of the United States of America should not be referred to the Drafting Committee as a matter of drafting and not substance.

163. Mr. HENSHILWOOD (Australia), noting that the phrase "amendments and additions" occurred also in Articles 5 and 6, said that as the proposal gave clarity to several Articles he supported it.

164. Mr. WAHL (United States of America) indicated that the Delegation of the United States of America agreed to have the amendment considered a drafting point.

165. Mr. STAMM (Switzerland) agreed that the question should be referred to the Drafting Committee, in order that the meaning of "amendments" might be clarified.

166. Mr. BODENHAUSEN (Director General of WIPO) pointed out that if the Conference decided to retain the word "amendments" alone, the General Report would have to mention why this was so.

167.1 The CHAIRMAN said that the Drafting Committee would endeavor to find a simple, unambiguous wording for all the Articles in which the problem arose.

167.2 He opened discussions on paragraph (1)(a)(iii) of Article 2. The Delegation of the United States of America had proposed an amendment concerning the English text.

168. Mr. WAHL (United States of America) said that the proposal was a drafting matter which was intended to provide for the future, when the Agreement came into force.

169. The CHAIRMAN suggested that this proposal might be referred to the Drafting Committee.

170. *It was so decided.*

171. The CHAIRMAN noted that paragraph (1)(b) of Article 2 did not give rise to any comment and opened discussions on paragraph (2)(a).

172. Mr. LAURELLI (Argentina) pointed out that the language question arose in its most general form in Article 16. He thought therefore that paragraph (2)(a), which related to this question, should be examined at the same time as Article 16.

173. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) seconded the proposal of the Argentine Delegation.

174. The CHAIRMAN, for his part, had an objection to the discussion of paragraph (2)(a) at the same time as Article 16.

175. Mr. BOWEN (United Kingdom) said that he did not understand the proposal concerning Articles 2 and 16 since he could see no relation between the two Articles. Article 2 related to the definition of the Classification whereas Article 16 related to a different matter, namely the draft Agreement.

176. The CHAIRMAN replied that the documents referred to in Article 2(2)(a) and in Article 16 were indeed not the same. However, he believed that the Spanish-speaking



Delegations intended to raise the question of the use of Spanish in both cases. For this reason he considered it possible to deal with the two points at the same time.

177. Mr. PHAF (Netherlands) pointed out that Article 3 related expressly to the languages of the Classification. It was therefore rather Article 3 that should be dealt with at the same time as Article 16.

178. Mr. BODENHAUSEN (Director General of WIPO) wished to make the same remark. Article 2 referred to copies of the Classification which were already in existence and would be deposited, in the English and French languages. Articles 3 and 16, on the other hand, dealt with the question of the languages into which the Classification and the Agreement would be translated. This, therefore, was the question which had to be taken up later.

179. Mr. STAMM (Switzerland) stated that the translation of the authentic English version of the Classification could be in any language.

180. The CHAIRMAN proposed that the Conference adjourn at this point. This would enable the Spanish-speaking Delegations to consult and to say the following morning whether they intended to maintain their proposal.

181. *It was so decided.*

*The meeting rose at 6.05 p.m.*

## SECOND MEETING

Tuesday, March 16, 1971, 10.05 a.m.

DRAFT AGREEMENT (*continued*) (documents : IPC/DC/2; IPC/DC/12; IPC/DC/15; IPC/DC/16; IPC/DC/18)

### Article 2 (Definition of the Classification) (*continued*)

182. The CHAIRMAN indicated that the Main Committee had examined Article 2(2)(a) in the course of the last meeting, and that the explanations provided on this subject seemed to have satisfied the Delegations of Argentina and Spain.

183. *Paragraphs (2)(b) and (2)(c) of Article 2 were adopted.*

### Article 3 (Languages of the Classification)

184. *Paragraph (1) of Article 3 was adopted.*

185. Mr. BODENHAUSEN (Director General of WIPO) pointed out that the words "de la propriété intellectuelle" had appeared in the French text by mistake. They should therefore be deleted.

186.1 The CHAIRMAN said that the French text would be amended accordingly.

186.2 He then asked the Delegate of Brazil whether he wished to submit an amendment or whether he preferred to enlarge on his proposals concerning paragraph (2) orally.

187. Mr. LAURELLI (Argentina) said that his country, like Brazil and Spain, would like to have the Classification drawn up in languages other than those indicated in the Draft, in order that a greater number of countries might use it without having to make translations.

188. Mr. PHAF (Netherlands) presented the amendment proposed by the Netherlands as appearing in document IPC/DC/16, which consisted in adding, after the brackets in paragraph (2), the phrase "on the basis of a translation submitted by the interested Governments, in consultation with those Governments" and deleting the phrase "after consultation with the interested Governments." This proposal seemed to him to be very close to that of Argentina, while the latter nevertheless had the drawback of involving an amount of work so enormous as to be practically impossible to achieve. The Delegation of the Netherlands considered, therefore, that any country wishing to have a translation in its language should itself prepare a draft and submit it to the International Bureau of WIPO, which would then establish the official translation.

189. Mr. MAST (Germany (Federal Republic)), supporting the proposal of the Netherlands Delegation, said that it seemed desirable that the Patent Offices of individual countries in which a particular language was spoken should be able to furnish translations and establish texts.

190. Mr. STAMM (Switzerland) supported the proposal of the Netherlands Delegation.

191. Mr. HOFFMANN (Luxembourg) also spoke in favor of the proposal of the Netherlands Delegation.

192. Mr. LAURELLI (Argentina) considered that the proposal was not slightly different from that of Argentina but very different. It would be very difficult for countries like Argentina and Brazil to apply the Agreement if there did not exist a translation in Spanish, established by experts, which might be used for reference.

193. The CHAIRMAN felt that it was preferable to postpone discussion until such time as the Main Committee had before it the written text of the proposal of the Delegation of Argentina, and noted that the members of the Main Committee shared his opinion.

194. The SECRETARY GENERAL indicated that the text would be distributed in the course of the morning.

### Article 4 (Legal Scope and Use of the Classification)

195. The CHAIRMAN informed the Main Committee that the Delegation of Norway requested the deletion of the last two sentences of the first paragraph.

196. Mr. NORDSTRAND (Norway) drew attention to the last two sentences of paragraph (1) of Article 4: "Nevertheless, each country shall have the right to attribute to it the legal scope which it considers appropriate. In particular, the Classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded in those countries." He pointed out that, while these provisions were clearly based on corresponding provisions in the Nice and Locarno Agreements, they did not seem appropriate to the patent field. The scope of the protection of an invention could not be decided according to its classification. No country should therefore be given the opportunity to link any legal right to the classification of an invention. It was assumed to be within the meaning of the Paris Convention that an invention should be protected according to its content and not according to the classification applied to it. The classification of a patent application was made by the Patent Office and not by the applicant. The deletion of the last two sentences of paragraph (1) was therefore proposed.

197. Mr. HANSSON (Sweden) said that he supported the proposal of the Delegation of Norway. In his opinion, if a country had the right to attribute legal scope to the Classification this might in some cases lead to the loss by the applicant of his legal rights. The system of protection by

patents did not correspond to the systems of protection by trademark.

198.1 Mr. MAST (Germany (Federal Republic)) said that if the proposal of the Delegation of Norway was followed up, paragraph (1) of Article 4 would read: "Subject to the requirements prescribed by this Agreement, the Classification shall be solely of an administrative character."

198.2 He found no other Article in which the Classification had anything but an administrative character. Consequently the words "Subject to the requirements prescribed by this Agreement" no longer seemed necessary.

199. The Delegations of AUSTRALIA and the NETHERLANDS indicated their support for the proposal of the Delegation of Norway.

200. The CHAIRMAN noted that *the proposal was accepted by the Main Committee. It was therefore referred to the Drafting Committee.*

201. Mr. MAST (Germany (Federal Republic)) proposed the deletion of the words "Subject to the requirements prescribed by this Agreement."

202. Mr. BODENHAUSEN (Director General of WIPO) considered that the words of which the Delegation of the Federal Republic of Germany proposed the deletion had a certain usefulness in that they referred to paragraph (3) of Article 4. The most suitable solution was no doubt to leave it to the Drafting Committee to propose a final text.

203. The CHAIRMAN agreed that the simplest thing to do was to refer the proposal to the Drafting Committee.

204. *It was so decided.*

205. The CHAIRMAN noted that paragraph (2) of Article 4 did not give rise to any objection. As for paragraph (3), he had before him two amendment proposals, submitted by Australia and the Netherlands (documents IPC/DC/12 and IPC/DC/17).

206. Mr. HENSHILWOOD (Australia) thought that the word "invention" was unsuitable and suggested the use of the wider term "subject matter."

207. Mr. CASTRO (Philippines) supported the amendment proposed by the Delegation of Australia.

208. Mr. STAMM (Switzerland) thought that the term "printed applications" might be found suitable.

209. The CHAIRMAN observed that the remark made by the Delegate of Switzerland related more to the second part of the proposal of the Delegation of Australia.

210. Mr. WITTMANN (Germany (Federal Republic)) was in favor of retaining the term "applied to the invention."

211. Mr. BOWEN (United Kingdom), supporting the proposal of the Delegation of Australia, said that the primary object of the Classification was to facilitate searching. He thought it would be useful if there was agreement to classify the whole of the information contained in the patent document. However, he expressed doubt concerning the use of the word "subject matter" and suggested that Article 4 be referred to the Drafting Committee.

212. Mr. HENSHILWOOD (Australia) thought it desirable to distinguish between the classification of disclosures for the purpose of searching and the classification of the invention. He agreed that the matter should be placed before the Drafting Committee.

213. Mr. BODENHAUSEN (Director General of WIPO) thought that the proposal of the Delegation of Australia would be to the advantage of countries which recognized utility models. He was interested in hearing the opinions of those countries on the subject.

214. Mr. HAERTEL (Germany (Federal Republic)) wished to retain the text of the Draft Strasbourg Agreement. He thought that the proposal of the Delegation of Australia would change the objectives of the Classification.

215. The CHAIRMAN thought that it was difficult to refer this question to the Drafting Committee, since it was one of substance.

216. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) explained that there were legislative provisions in his country which applied to utility models, which were classified down to subclass level. A general extension of the Classification to all matters would promote the interests of the Classification.

217. Mr. LIPS (Switzerland) said that the Delegation of Switzerland shared the doubts expressed by the Delegation of the Federal Republic of Germany and was not in favor of the proposal put forward by the Delegation of Australia.

218. Mr. HANSSON (Sweden) supported the opinion expressed by the Delegation of the Federal Republic of Germany.

219. Mr. GAY (United Kingdom) thought that the Main Committee was becoming confused. The primary object of the Classification, as set out in the Guide<sup>1</sup>, was to facilitate searching and, using it, it should be possible to find any information. Paragraph 61 of the Guide provided a symbol for separating invention units from other classified information. The Guide suggested—although this was not obligatory—that the Classification should indicate invention units and any other information thought to be of interest. The Delegation of Australia merely wanted this matter to be in the Agreement rather than hidden in the Guide, which was part of the Classification.

220. Mr. WAHL (United States of America) supported the view of the Delegation of the Federal Republic of Germany, according to which the word "invention" should remain, so that new disclosures might include subject matter larger and broader than the inventive concept. This would be in the interests of the uniformity and use of the Classification

221. The CHAIRMAN observed that a fairly clear majority seemed to oppose the first part of the proposal of the Delegation of Australia, so he asked the Delegate of Australia whether he intended to press it.

222. Mr. HENSHILWOOD (Australia) did not wish to be inflexible since the opening words of paragraph (3) of Article 4 did not exclude symbols relating to other matters. The requirement was limited, and was not absolute as to the extent of the information to be classified; it was thus possible to classify such other pieces of information as might be found useful. He did not wish to press the matter to a vote.

223. *The first part of the proposal concerning the words "applied to the invention" (document IPC/DC/12) was therefore withdrawn.*

224. The CHAIRMAN read out the second part of the proposal, which suggested the addition, at the end of paragraph (3) of Article 4, of the following proviso: "provided that it shall not be necessary for the competent authorities of the countries of the Special Union to include the symbols

<sup>1</sup> *Editor's Note:* See note on paragraph 92.3 of these summary minutes.

of the Classification in copies of applications that are merely laid open for public inspection and thereby deemed to be published or issued to the public for the purpose of public inspection." He recalled that the Delegate of Switzerland had asked how broad a meaning should be attributed to the words "published by them."

225. Mr. SLAVIN (Ireland) said that Ireland's observations, set out in document IPC/DC/5, were similar to the Australian proposal, which proposal he therefore supported.

226. Mr. KOELEWIJN (Netherlands) said that the suggested change could also mean that many important publications would be issued without classification, or with only a restricted classification. A country could publish seventy thousand documents a year, thirty thousand of which would consequently be without full classification; an important part of the aim of the Agreement would thus be missed. Irish publications, for example, would involve only some 2,000 items a year with only 5% in the form of publications. The larger countries would face more applications and would begin by publishing the first applications without classification.

227. The CHAIRMAN said that, if he had correctly understood the explanations which had been given, the provisions under discussion related only to documents laid open for public inspection without publication; he asked the Delegate of Australia whether this was the correct interpretation.

228. Mr. HENSHILWOOD (Australia) said that a copy of a document laid open could not be bought by a member of the public in the same way as a book could be bought off the shelf. According to Australian patent law the document concerned was merely "deemed" to be published at an early stage. If a member of the public wanted a copy, then a special arrangement would have to be made following every such request. Publication in the sense of printing came later, after the stage of acceptance. He did not object to applying symbols at that stage but only at the earlier stage.

229. Mr. SLAVIN (Ireland) took very much the same view on interpretation as the Australian Delegation. The documents were copies of the specification; they were security held by the library authority and could only be obtained by the public on request by giving the number and title. A member of the public could be provided with a photocopy. There was no question of such a document being published and available on the shelf at a particular price.

230. Mr. STAMM (Switzerland) said that under Swiss law an application was considered to have been published when it had been made accessible to the public. Only once the document had been printed and sold was it included in the search material of the different countries.

231. Mr. WAS (International Chamber of Commerce (ICC)) thought that the question which would arise was how the public would know what to ask for, because the Classification was intended as a guide for the public. In certain countries it was possible for a member of the public to have a subscription to a certain class so that automatically he would receive photostat copies. In many countries it was mentioned in a regular bulletin that an application was laid open for public inspection. These applications would therefore be grouped and mentioned by title according to classification. The long-term aim was to replace all national classification by international classification.

232. Mr. MASSALSKI (International Federation of Patent Agents (FICPI)) fully supported the observations presented by the representative of the International Chamber of Commerce. When a patent application was laid open for inspection by the public in order that the latter might exercise its control, the important thing was not necessarily

that it exist in printed form. It was sufficient that industrialists might take note of it at the Patent Office and pick out all the applications already made in the category which interested them. This would no longer be possible if the proposal of the Delegation of Australia were adopted.

233. Mr. WAHL (United States of America) said that "published" in Article 4(3)(i) meant the same as "published" in the Patent Cooperation Treaty. In the interests of harmony and uniformity, therefore, this word should be used. The Delegation of the United States of America wished to encourage Offices which laid applications open for public inspection to apply the International Patent Classification preferably to its full depth, to group and subgroup level.

234.1 Mr. PFANNER (Secretary of the Main Committee) concurred with the view expressed by the Delegate of the United States of America. Article 4(3) contained a minimum obligation to give to published patent documents, as distinct from applications laid open for public inspection, the complete symbols of the Classification.

234.2 The debate had revealed two weaknesses in the text. First it was not entirely clear what the word "published" meant. It might therefore be useful to apply the same precautions as those taken in the PCT and qualify the word "published" by saying expressly that it did not include publications laid open for public inspection.

234.3 The second weakness concerned the fate of applications only laid open for public inspection. Mr. Pfanner wondered whether a solution might not be to encourage the use of full symbols for applications only laid open for public inspection? Although such use of full symbols would be optional, there should at least be an obligation to classify those applications down to subclass level.

235. The CHAIRMAN asked whether Mr. Pfanner's proposal met with the approval of the Delegations of Australia and Ireland.

236. Mr. SLAVIN (Ireland) stated that Ireland classified documents down to subclass level. He thought that the proportion of documents only laid open for public inspection after 18 months in the country in question, could be fully classified.

237.1 Mr. HENSHILWOOD (Australia) agreed with Mr. Pfanner's suggestion that the word "published" should be qualified to make its meaning clear.

237.2 As for the second suggestion made by Mr. Pfanner, he was uncertain about its implications. Under Australian law the documents in question were unexamined applications. If documents were required urgently before being printed, published and marked with the symbols, presumably the party making the request had some means of requesting the document concerned.

238. Mr. PFANNER (Secretary of the Main Committee) said that the criterion was not so much whether or not a document had been examined. He had already drawn attention to the fact that the normal type of publication of an unexamined application after 18 months would be covered by the minimum obligation provision as presently drafted. The criterion of distinction was what was necessary for the purposes of the minimum documentation which had to be maintained by Offices for search purposes. Minimum documentation excluded applications only laid open for public inspection, so that the obligation might be somewhat lessened. It was essential that, the minute they were published, even unexamined applications bear the full symbols of the Classification down to the lowest level.

239. The CHAIRMAN proposed to the Main Committee that the meeting be suspended for a few minutes. Delegation

tions could take advantage of this period for reflection, with a view to the possible submission of a new text on resumption of the discussion.

240. *It was so decided.*

*The meeting was suspended at 11.35 p.m. and resumed at 12 noon*

241. Mr. PFANNER (Secretary of the Main Committee) said that he had taken advantage of the suspension of the meeting to examine a new proposal with the Delegation of the United States of America. The text would be submitted to the afternoon meeting.

242. The CHAIRMAN proposed that discussion of this item be postponed to the afternoon.

243. *It was so decided.*

244. The CHAIRMAN recalled, on the subject of Article 4, that the Delegation of the Netherlands had also proposed an amendment which consisted in adding, after paragraph (3), a new paragraph worded as follows: "If certain countries of the Special Union entrust the grant of patents to a Patent Office common to those countries, they undertake to do their utmost to ensure that the Office in question complies with the obligations referred to in paragraph (3)."

245. Mr. PHAF (Netherlands) said that the purpose of this amendment was to bridge a gap in the Draft Agreement. The future would undoubtedly bring regional organizations competent to grant patents. While it was not possible to impose a strict obligation on them, they could at least be asked to "do their best" to observe the same obligations as member countries.

246. Mr. LABRY (France) was in favor of the principle of the amendment. However, in view of the fact that paragraph (4) of the same Article allowed certain exceptions, he thought that the wording of the text should be given a more binding character.

247. Mr. LAURELLI (Argentina) shared this view.

248. Mr. HOFFMANN (Luxembourg) was also of the same opinion: an Agreement could not be confined to recommendations. Alternatively a separate recommendation could be adopted which would not appear in the Agreement itself.

249. Mr. ARMITAGE (United Kingdom), while agreeing with the proposal of the Netherlands Delegate, pointed out that member countries of the Special Union could not be expected to force non-members to accept arrangements made on their behalf.

250. The CHAIRMAN said that a point had been reached in the discussion at which a proposal embodying a more binding system, as desired by several Delegations, should be submitted. Failing this, the Main Committee would have to decide on the proposal of the Netherlands Delegation.

251. Mr. PHAF (Netherlands) said that his country would have no objection if a more binding text were found.

252. Mr. BODENHAUSEN (Director General of WIPO) said that his Organization had been confronted with the same problem on other occasions, and that it would be possible to draw inspiration from the solutions adopted then.

253. The CHAIRMAN therefore proposed that interested Delegations talk the matter over during the midday break.

254. *It was so decided.*

255. Mr. LAURELLI (Argentina) suggested that a text be found which established absolute equality between all Offices.

256. The CHAIRMAN indicated that he had before him a proposal by the United States of America concerning paragraph (4) of Article 4 (document IPC/DC/11). Since this proposal concerned drafting, he asked its author whether he wished to have it examined by the Drafting Committee.

257. Mr. TREZISE (United States of America) said that he did indeed wish to have the amendment proposal considered by the Drafting Committee.

258. *The proposal was referred to the Drafting Committee.*

259. Mr. BONETE (Togo) expressed reservations concerning the wording of paragraph (4) of Article 4 and said that he would propose an amendment after more thorough study.

260. The CHAIRMAN said that he had three amendment proposals before him for paragraph (5) of Article 4. The first appeared in document IPC/DC/12 and came from the Delegation of Australia, which suggested the deletion of the words "in heavy type, or."

261. Mr. HENSHILWOOD (Australia) was not clear why emphasis was placed on the use of heavy type. He asked what was meant by "in such a manner that they are clearly visible." Under the Australian system the symbols of the International Classification were shown in normal type and the Australian symbols in heavy type. Provided that the symbols were clearly shown, a general indication would suffice rather than a specific form of showing symbols. The particular form adopted should be left to the choice of the individual country.

262. Mr. HAERTEL (Germany (Federal Republic)) wondered what the reasons were behind the proposal of the Australian Delegation. The Draft Agreement provided that every country might choose whether to print the symbol "in heavy type, or in such a manner that they are clearly visible." Australia would not be forced to use heavy type if it did not wish to do so.

263. Mr. RODRIGUEZ PADILLA (Cuba) spoke in favor of maintaining the original text, since he considered it necessary to make a clear distinction between the International Classification and the other classifications which might be used.

264. Mr. LABRY (France) also spoke in favor of maintaining the existing text, since it also provided complete freedom for countries which did not wish to use heavy type: it was sufficient that they print the symbols of the Classification "in such a manner that they are clearly visible."

265. The CHAIRMAN considered that it was not necessary to vote on the proposal of the Delegation of Australia since no other Delegation had supported it.

266. *It was so decided.*

267. The CHAIRMAN presented the second amendment, which appeared in document IPC/DC/14 and proposed the deletion of the word "Patent."

268. Mr. ARMITAGE (United Kingdom) said that the wording of Article 4(5) was important since it was customary to print the words "International Classification" before the symbols, without the word "Patent." It was not desirable to introduce a deliberate change because it would confuse the public. The United Kingdom would favor the use of "International Classification" on printed documents, but the question of referring to it in the published version

was a separate matter. The question should be left until there was a decision on the proposal of the United States of America which was intended to bring about the deletion of the whole expression.

269. The CHAIRMAN laid stress on the practical importance of this observation. He invited the Main Committee to examine the amendment to paragraph (5) of Article 4 proposed by the United States of America.

270. Mr. WAHL (United States of America) said that it had been the wish of the Delegation of the United States of America to print on documents an abbreviation only of the words "International Patent Classification" in order to reduce the cost of printing. However, as the alternative provided for in paragraph (5) appeared satisfactory, he withdrew the proposal.

271. The CHAIRMAN thanked the Delegation of the United States of America, whose proposal simplified the work of the Main Committee.

272. Mr. HOFFMANN (Luxembourg), recalling that paragraph (5) of Article 4 provided that the symbols of the Classification were to be printed on documents, said that in Luxembourg patent documents were not printed and that it would therefore be very difficult to print the symbols. He asked whether it would be sufficient if they were type-written.

273. The CHAIRMAN replied that the purpose of the provision referred to was to arrange for the international symbols to be easily read and not relegated to an insignificant position in relation to the national symbols. He considered that Luxembourg might be trusted to abide by the intention of this provision.

274. Mr. HOFFMANN (Luxembourg) thanked him.

#### *Article 5 (Committee of Experts)*

275.1 The CHAIRMAN noted that paragraph (1) did not give rise to any comment.

275.2 With regard to paragraph (2), amendment proposals had been submitted by the Delegations of Belgium, France, Luxembourg, the Netherlands, Switzerland and the United Kingdom (document IPC/DC/15), and also by the Delegation of the United States of America (document IPC/DC/18).

276.1 Mr. ARMITAGE (United Kingdom) said that the aim of the proposals submitted jointly by the Delegations of Belgium, France, Luxembourg, the Netherlands, Switzerland and the United Kingdom (document IPC/DC/15) was to supplement the observations already submitted by the International Patent Institute.

276.2 The first proposal, which concerned Article 5(2)(b), was to insert after "patent field" the words "such as the International Patent Institute of The Hague." The object of the proposal was to provide within the Agreement a text which allowed for what was considered to be the de facto position of the International Patent Institute of The Hague in relation to the work on the International Classification. The proposal was to some extent inspired by the text of the Patent Cooperation Treaty.

276.3 The second and third proposals were to delete Article 5(2)(d) and to reword Article 5(3) as follows: "The Committee of Experts shall adopt its own rules of procedure, which shall allow for the possibility of participation of the Intergovernmental organizations referred to in paragraph (2)(b) of this Article in meetings of its subcommittees and working groups and of such organizations holding officership in the Committee or its subcommittees or working groups."

276.4 The International Patent Institute would not have the right to vote, but would be able to attend meetings in an observer capacity. It would however be eligible for appointment to a subcommittee or working group or for holding office in one of those groups.

276.5 The fourth proposal was to insert after "Council of Europe" in Article 7(1)(c) the words "and any intergovernmental organization as defined in Article 5(2)(b)." The International Patent Institute would also have the right to be represented as an observer in the Assembly, in accordance with the Patent Cooperation Treaty.

277. The CHAIRMAN recalled that questions regarding the status of observers had been postponed to Thursday, March 18. However, the Main Committee might nevertheless begin examination of the amendments which had just been proposed.

278.1 Mr. LAURELLI (Argentina) said that he wished to submit a number of amendments to the texts contained in document IPC/DC/15. He did not object to the IIB being mentioned in Article 5(2), since it was an intergovernmental organization whose activities could not be regarded as originating in a single country. On the other hand he did not think it possible to accept the proposed amendment to paragraph (3) in its present form.

278.2 This did not amount to opposition to the proposed text. The Delegation of Argentina merely wished to register its disagreement on a drafting matter.

278.3 As for paragraph (3), the proposal put forward by the Delegate of the United Kingdom affected the future rules of procedure of the Committee of Experts, which the Delegate of Argentina could not accept.

279. Mr. FINNISS (International Patent Institute (IIB)) stated that the IIB was an intergovernmental organization which had the same status as other organizations of the same type, particularly with respect to privileges and immunities.

280. Mr. LAURELLI (Argentina) repeated that he was not in any way questioning the quality of the work of the IIB. Yet to make special arrangements for one organization, whichever it might be, struck him as bad policy in an Agreement of this kind.

281. Mr. CABRAL DE MELLO (Brazil) said that according to the provisions of Article 5(2)(b) and (d) observers were able to hold office in the Committee of Experts and in subcommittees or working groups set up by it. He preferred that this matter be settled by the Committee of Experts itself.

282. Mr. HAERTEL (Germany (Federal Republic)) said that the provisions of the Patent Cooperation Treaty on International Searching Authorities made express mention of the IIB. It seemed natural to use a similar system in the draft Agreement. However, paragraph 2(b) as proposed contained different wording. The Delegate of the Federal Republic of Germany asked what in fact was covered by the provision in paragraph 2(b) and whether OAMPI, for instance, was included; he also asked whether the future European Patent Office would be covered. One example would be too narrow as a guide and several examples would have to be given to show that the paragraph also included offices which granted patents without actually being Patent Offices.

283. The CHAIRMAN said that the Delegation of the United Kingdom would reply at the beginning of the afternoon meeting.

*The meeting rose at 1 p.m.*

**THIRD MEETING**

Tuesday, March 16, 1971, 3.10 p.m.

**DRAFT AGREEMENT** (*continued*) (*documents: IPC/DC/2; IPC/DC/6; IPC/DC/14; IPC/DC/15; IPC/DC/18; IPC/DC/20; IPC/DC/21*)

*Article 5 (Committee of Experts) (continued)*

284. The CHAIRMAN recalled that the Main Committee had adjourned at the point where the Delegate of the Federal Republic of Germany had questioned the Delegate of the United Kingdom on a proposal which he and a number of other Delegates had submitted concerning Article 5 (document IPC/DC/15).

285. Mr. ARMITAGE (United Kingdom) said that while he could not reply on behalf of the group of countries which had sponsored the proposals, he could give a personal answer to the question asked by Mr. Haertel as to whether the proposal to insert the words "such as the International Patent Institute of The Hague" in Article 5(2)(b) was intended to limit the scope of the paragraph and possibly exclude organizations different from the International Patent Institute. It had not been the intention to do so. The wording was wide enough to include various types of intergovernmental organizations specialized in the field of patents and related documentation. The aim had been to give recognition to the special nature of the role played by the IIB. As to whether or not it was necessary to include other examples, Mr. Armitage thought that it could be made clear in the Report of the Conference that the specific mention of the IIB had no limiting effect on the scope.

286. Mr. PHAF (Netherlands) said that he fully agreed with Mr. Armitage's explanation.

287. Mr. STAMM (Switzerland) said that he had nothing to add.

288. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) wondered whether the new wording might not result in a limitation on the participation of intergovernmental organizations at meetings of the Committee of Experts.

289. Mr. BODENHAUSEN (Director General of WIPO) replied that the freedom of action of the Committee would remain unlimited.

290. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) suggested that the relevant organizations might be listed under Article 7(1)(c).

291. Mr. TAKANO (Japan), while appreciating the role played by the IIB, nevertheless preferred Article 5 to stand as originally worded.

292. Mr. LAURELLI (Argentina) said that he found it difficult to accept that the IIB should have a more prominent position than other organizations which exercised the same activities. While it was necessary that such organizations should be covered by the Agreement, he saw no advantage in making special mention of one of them. Therefore Mr. Laurelli could not accept the proposed amendments to Article 5(2)(b) and (3). He hoped that a wording would be agreed upon which would give other intergovernmental organizations the same rights as the IIB. He asked whether the privileges and immunities accorded to the IIB were the same as those enjoyed by WIPO and other similar organizations.

293. The CHAIRMAN proposed that the Director General of the International Patent Institute inform Mr. Laurelli and the other Delegations directly as to the privileges and

immunities enjoyed by that Organization. This would save the time of the Conference, which still had many problems to solve.

294. Mr. HAERTEL (Germany (Federal Republic)) pointed out that if the proposal of an express mention of an organization were adopted it should be extended to include regional patent offices, otherwise the provisions of Article 5(2)(b) could work in the wrong direction.

295. The CHAIRMAN said that this indeed was how he had understood the intervention of the Delegation of the Federal Republic of Germany.

296. Mr. LABRY (France) wished to make it clear that the authors of the amendment had never intended to exclude certain national or regional Offices, or to reserve special treatment for the IIB. Their concern was merely to allow certain organizations which played an important part in the classification of patents to have a status, unusual perhaps, but justified by their position.

297. Mr. BODENHAUSEN (Director General of WIPO) suggested that the scope of the proposed amendments to Article 5(3) be limited by specifying that the text applied to organizations which carried out classification themselves. In that case it would not be necessary to mention the IIB by name, and a dubious analogy between paragraphs (2)(b) and (3) would be avoided.

298. The CHAIRMAN hoped that the Delegations which had proposed the amendment would consider this very interesting suggestion.

299. Mr. FINNISS (International Patent Institute (IIB)) pointed out that the Institute had for the last fifteen years, at its own expense, taken part in the preparation of the complex system which the Conference was now considering. At times up to ten persons were involved in the work. Moreover, IIB had contributed, often substantially, to the implementation of domestic laws in countries like France, the Netherlands, Switzerland and Turkey. There could no longer be any doubt that it would be included in the future among the recognized authorities under the PCT plan. It would therefore be bound, by force of circumstances, to delegate some of its most qualified officers to attend the Committee of Experts, in which they would certainly play an active part. This was the factual reality embodied in the amendment put forward by the Delegation of the United Kingdom. Yet it was in no way exclusive in character: its only purpose was to allow the IIB to take part in the work of the experts on the same footing as national organizations. Mr. Finnis added that he would be glad to inform interested parties on the privileges and immunities of the Institute.

300. The CHAIRMAN, after having stressed the importance of the work also carried out by certain countries like France and Italy, which could in no way pass for "preliminary examination" countries, recalled that the problem raised by the existence of observers could not be settled before the morning of March 18. He wondered therefore whether in fact the Conference was in a position to decide before then on the amendment contained in document IPC/DC/15.

301.1 Mr. ARMITAGE (United Kingdom) did not think it was necessary to postpone consideration of the amendment contained in document IPC/DC/15 to the meeting on the Thursday morning, March 18, when different aspects of the matter would be discussed.

301.2 The Director General of WIPO had suggested that one solution might be to keep Article 5(2)(b) as it now was and to impose some limitation on the scope of the proposed new paragraph (3), in such a way that the right to take part in the work of the subcommittees and to hold office in them should not belong to all the organizations covered by para-

graph (2)(b), but should be reserved for those which, like the IIB, operated in the field of information retrieval or were actively concerned with the use of the Classification, and hence were able to perform a substantial amount of work on the development of the Classification. The United Kingdom Delegation considered such an amendment acceptable.

301.3 Under the circumstances Mr. Armitage suggested that a small working group should be set up to draft a recommendation which would be submitted to the Main Committee meeting on the Thursday morning, March 18.

302. The CHAIRMAN supported the proposal by Mr. Armitage, which seemed likely to save the time of the Conference by avoiding protracted Main Committee discussions. He hoped therefore that a working group could be set up which would be essentially bipartite in composition.

303. Mr. LAURELLI (Argentina) said that he also was in favor of setting up such a working group, which in his opinion could draw useful inspiration from the principles set forth by the Director General of WIPO.

304. The CHAIRMAN proposed that the Working Group should consist of the Delegates of Argentina, France, Germany (Federal Republic), Japan, the Netherlands and the United Kingdom, and, at their request, those of Brazil and Switzerland. He expressed the wish that the Working Group submit its conclusions within 24 hours.

305. *It was so decided.*

306. The SECRETARY GENERAL stated that paragraph (4) of Article 5 was the subject of two amendments, proposed by the United States of America (document IPC/DC/18) and by Argentina and Brazil (document IPC/DC/21).

307. The CHAIRMAN asked the Main Committee whether it agreed to examine documents IPC/DC/18 and IPC/DC/21 immediately, even though they had only been distributed that afternoon.

308. *It was so decided.*

309. Mr. GALL (Austria) proposed amending the beginning of Article 5(2)(c) to read: "The Director General shall, on his own initiative or at the request of the Committee of Experts, invite ..."

310. The CHAIRMAN asked the Delegate of Austria, in accordance with Rule 32 of the Rules of Procedure, to submit his proposal in writing.

311. Mr. GALL (Austria) accepted the Chairman's proposal.

312. The CHAIRMAN observed that document IPC/DC/18 related solely to a matter of drafting, and proposed that it be sent directly to the Drafting Committee.

313. *It was so decided.*

314. The CHAIRMAN proposed to do the same thing with document IPC/DC/21, which proposed the addition at the end of paragraph (4)(c) of Article 5 of the words: "taking the needs of developing countries particularly into account."

315. *It was so decided.*

316. The CHAIRMAN asked the Delegation of the United States of America to present its proposed amendment to paragraph (4)(d) of Article 5 (document IPC/DC/18).

317. Mr. WAHL (United States of America) proposed the addition in Article 5 of a new paragraph (4)(d) stating that

the Committee of Experts "shall (d) have the right to establish subcommittees and working groups."

318. Mr. TAKANO (Japan) supported the United States proposal.

319. Mr. PHAF (Netherlands) also supported the United States proposal.

320. Mr. JANKOVIĆ (Yugoslavia) also gave his support to the United States proposal.

321. Mr. WAS (International Chamber of Commerce (ICC)) thought it preferable to add the proposed subparagraph (d) not to Article 5(4), but to Article 5(3) as subparagraph (b).

322. The CHAIRMAN noted that no Delegation had opposed the United States proposal and that the only question remaining was that of deciding in which paragraph of Article 5 the new subparagraph should be inserted. He proposed that the matter be referred to the Drafting Committee.

323. *It was so decided.*

*The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.*

324. The CHAIRMAN indicated that he had before him three amendment proposals for paragraph (6) of Article 5. These were contained in documents IPC/DC/14 from the United Kingdom, IPC/DC/18 from the United States of America and IPC/DC/20 from the Netherlands.

325. Mr. BOWEN (United Kingdom) compared Article 5(6)(b), which referred to "a majority of three-fourths of the countries represented," with Article 7(3)(d) and (e), and suggested that there was a significant difference. In the Assembly the majority required was that of the votes cast, with abstentions not counting as votes. If Article 5(6)(b) did not correspond to Article 7, there was a possibility of so many abstentions that a majority would be impossible. In support of his proposal Mr. Bowen referred to the corresponding provisions on the Executive Committee of the Paris Union, which also required a majority of the votes cast.

326. Mr. WAHL (United States of America) supported the United Kingdom proposal and suggested that, if the proposal were accepted, the Delegation of the United States of America would withdraw its proposed amendment to paragraph (6)(a) of Article 5, set out in document IPC/DC/18, which was on the same lines. Alternatively the matter could be left to the Drafting Committee.

327. Mr. PHAF (Netherlands) was willing to accept that the simple majority be calculated in relation to the number of countries taking part in the vote, however he pointed out that his Delegation had also proposed an amendment to paragraph (6)(a).

328.1 The CHAIRMAN did not think that this amendment was incompatible with those which had just been put forward. It involved adding to paragraph (6)(a) the words "provided that this majority includes the majority of countries represented which have not made the declaration referred to in Article 4(4)," and deleting paragraph (6)(b).

328.2 The Chairman recalled that the declaration referred to in Article 4(4) was the one required of countries which preferred not to use the symbols relating to the groups and subgroups of the Classification.

329. Mr. PHAF (Netherlands) said that the criterion specified in Article 5(6)(b) would be practically inapplicable. It could happen that the Committee of Experts one

day adopted amendments which altered the existing Classification completely. The implications of this would be very serious for all the countries represented, since they would have to take the new nomenclature into account. If all the countries were convinced of the necessity of the revision, all would be well. If this were not the case, however, paragraph (6)(b) would not be sufficient to solve the problem. The Netherlands Delegate therefore proposed a double-majority system derived from that introduced by the Convention establishing WIPO.

330. The CHAIRMAN remarked that this amounted to substituting a simple criterion for one of appreciation.

331. Mr. PAPOULIAS (Greece) said that he was not in favor of the proposal by the Delegation of the Netherlands.

332. Mr. LIPS (Switzerland) said that his Delegation was opposed to the deletion of Article 5(6)(b). The International Classification was not only an instrument for search: it should also serve small Patent Offices, such as those in developing countries, for documentation purposes. While it was true that in the Agreement there was no obligation to undertake reclassification work, the Patent Office using the International Classification nevertheless had to keep its collection up to date, which included reclassification, otherwise rational and reliable search would not be possible.

333. Mr. HAERTEL (Germany (Federal Republic)) supported the statement by the Delegate of Switzerland.

334. The CHAIRMAN noted that the proposal by the Netherlands was not supported by any Delegation.

335. Mr. PHAF (Netherlands) said that under the circumstances he withdrew the proposal. He nevertheless wished to point out that his amendment was also intended to protect States against hasty changes of nomenclature.

336. The CHAIRMAN indicated that the other Delegates considered that the text of the Draft, even though its implementation might be difficult, already provided such protection.

337. Mr. LABRY (France) said he was also in favor of maintaining the original text.

338. The CHAIRMAN suggested that the proposals of the United Kingdom (document IPC/DC/14) and the United States of America (document IPC/DC/13) regarding paragraph (6)(a) of Article 5, which did not give rise to any disagreement, should be referred to the Drafting Committee.

339. Mr. WITTMANN (Germany (Federal Republic)) said the Delegation of the Federal Republic of Germany believed that sufficient explanation of the meaning of the "basic structure" had been given in the Guide to the Use of the International Patent Classification<sup>1</sup>. The Delegation of the Federal Republic of Germany proposed the setting up of a working group to submit a proposal to the Main Committee, and expressed its readiness to participate in the work of such a working group.

340. *Documents IPC/DC/14 and IPC/DC/13 were referred to the Drafting Committee.*

341.1 Mr. WAHL (United States of America) proposed the addition of the following to Article 5(6)(b): "In particular, (i) the addition or deletion of a section in the Classification shall be considered to be a modification in the

basic structure of the Classification; (ii) the transfer of "art" or subject matter from one section to another for the purpose of reclassification and return shall not be construed as a modification in the basic structure of the Classification; (iii) the abolishing of an existing subclass or group or the creation of a new subclass or group shall not be construed to be a modification in the basic structure of the Classification; and (iv) additionally, the reclassification of a subclass, group or subgroup shall not be construed to be a modification in the basic structure of the Classification."

341.2 The Delegation of the United States of America agreed with the Delegation of the Federal Republic of Germany that the subject was a highly technical one and therefore had no objection to its being referred to a working group, provided that the Delegation of the United States of America might serve on it.

342. The CHAIRMAN proposed that this amendment should be referred to a working group for examination, as suggested by the Delegation of the Federal Republic of Germany. This suggestion had moreover been accepted by the Delegation of the United States of America.

343. Mr. LIPS (Switzerland) said that the proposal was not necessary. Indeed it contained some contradictory and unclear statements. Under Article 5(6)(b) the basic structure was modified when one-fifth of the countries represented considered that a given proposal amounted to a modification.

344. Mr. ARMITAGE (United Kingdom) was not in favor of the setting up of a working group. He agreed with the United States that there should be a clearer explanation of what was meant by such things as "substantial work" and "basic structure." The objective was to deal with the situation in which a significant number of countries found themselves materially embarrassed in one of these respects. The idea of leaving, to be decided upon admittedly by a minority, the question of what, in their opinion, was either a basic amendment or something which entailed substantial reclassification, was the best that could be done. He considered that a sufficient safeguard already existed and that it was better not to overcomplicate the formula.

345. Mr. LABRY (France) said that he agreed with the Delegates of Switzerland and the United Kingdom.

346. Mr. HAERTEL (Germany (Federal Republic)) was prepared to accept the existing text of Article 5(6) and to withdraw his proposal to create a working group, if that was desired by the majority.

347. Mr. NORDSTRAND (Norway) agreed with the views of the United Kingdom Delegation.

348. Mr. WAS (International Chamber of Commerce (ICC)) thought that the proposal of the United States Delegation would have a restrictive effect.

349. The CHAIRMAN asked the United States Delegation whether it wished to press its proposal.

350. Mr. WAHL (United States of America) withdrew his proposal.

351. Mr. BOWEN (United Kingdom) suggested the inclusion of a requirement for the presence of a quorum composed of one-half of the countries represented on the Committee of Experts.

352. Mr. PFANNER (Secretary of the Main Committee) thought that such a requirement would hamper the work of the Committee of Experts during voting, since it would be particularly difficult to have a sufficient number of the countries represented for a quorum to be obtained.

<sup>1</sup> *Editor's Note:* See note on paragraph 92.3 of these summary minutes.



353. Mr. PHAF (Netherlands) was not in favor of the United Kingdom proposal for the same reasons as those put forward by Mr. Pfanner.

354. Mr. LIPS (Switzerland) supported the view expressed by Mr. Pfanner.

355. The CHAIRMAN said that it had been pointed out to him that the Committee of Experts would draw up its own rules of procedure. It would therefore be in a position to provide for a quorum if necessary. For his part, the Chairman was not certain, however, that provisions regarding the quorum lay within the competence of such a Committee.

356. Mr. TAKANO (Japan), while appreciating the view expressed by Mr. Pfanner, nevertheless supported the United Kingdom proposal and requested that his position be placed on record.

357. The CHAIRMAN observed that the majority of the Delegations seemed to be in favor of maintenance of the text appearing in the draft. He noted that the Delegation of the United Kingdom did not ask for a vote on its proposal.

*Article 6 (Notification, Entry into Force, and Publication, of Amendments and Additions, and Other Decisions)*

358. The RAPPORTEUR GENERAL, recalled that, in accordance with a previous decision, the Drafting Committee would have to examine whether the words "and additions" should not be deleted in both paragraphs of this Article.

359. *It was so decided, and paragraph (1) of Article 6 was adopted.*

360. Mr. WAHL (United States of America) said that his Delegation had experienced difficulty in finding the "periodicals designated" in Article 7 and wondered whether there was a misprint.

361. The RAPPORTEUR GENERAL indicated that the answer was to be found in the new Article 7(2)(x), which provided that the Assembly had to "perform such other functions as are appropriate under this Agreement."

362. The CHAIRMAN asked the Delegation of the United States of America whether it was satisfied with this reply.

363. Mr. WAHL (United States of America) replied in the affirmative.

364. *Paragraph (2) of Article 6 was adopted.*

*Article 7 (Assembly of the Special Union)*

365. The CHAIRMAN recalled that the amendment proposal submitted by the Netherlands lay within the competence of the Working Group which was to meet at 9.30 a.m. on March 17. As for the amendments proposed by the Secretariat General of the Council of Europe and WIPO, the Chairman pointed out that they appeared in document IPC/DC/16 and related to paragraphs (2)(a)(ix), (3)(c) and (3)(d). The first and third amendments involved only numbering changes, whereas the second entailed drafting paragraph (3)(c) as follows: "In the absence of the quorum the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau ..." [remainder unchanged].

366. *These amendments were approved.*

367. Mr. LAURELLI (Argentina) remarked that there was a mention of official languages in paragraph (2)(a)(vi), and repeated his intention to submit, on the morning of the following day, March 17, a draft which dealt with the problem as a whole.

368. The CHAIRMAN said that the Conference would therefore return to this matter on the morning of the following day, March 17.

369. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) said that if Article 7(1)(c) were modified as suggested by the United Kingdom Delegation and made to include intergovernmental organizations as defined in Article 5, the question arose as to its relationship with Article 7(2)(a)(viii), which referred to "intergovernmental and international non-governmental organizations" to be admitted as observers to meetings. He asked for clarification of the precise meaning of the provisions.

370. The CHAIRMAN did not think that there could be any objection to referring this matter to Working Group I.

371. Mr. ARMITAGE (United Kingdom) said that if the United Kingdom proposal for the amendment of Article 7(1)(c) were accepted, it would probably be necessary to make a corresponding amendment to Article 7(2)(a)(viii), which in that case should be examined by the Drafting Committee.

372. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) thought that if it was agreed to deal only with intergovernmental organizations in Article 7(1)(c) and to accept the amendment to Article 5(2)(b) proposed by the Delegations of the United Kingdom and other countries, Article 7(2)(a)(viii) would have to remain to deal with other international organisations not covered by Article 5(2)(b). If the matter were not clarified, it could lead to different treatment for certain organizations.

373. The CHAIRMAN said that the Conference would decide on the following day, March 17, in the light of the conclusions of Working Group I.

374. Mr. COUTO (Brazil) wished to have the word "agenda" replaced by the words "draft agenda" in paragraph (4)(c) of Article 7. It should be made clear that the Assembly was free to amend the agenda proposed by the Director General.

375. Mr. BODENHAUSEN (Director General of WIPO) said that this was exactly the meaning of the text proposed in document IPC/DC/2. If necessary the Rapporteur General would make it clear. It was perhaps inadvisable, however, to alter a formula which was already used in other Conventions and Agreements.

376. Mr. COUTO (Brazil) pressed his proposal.

377. Mr. HAERTEL (Germany (Federal Republic)) thought all Delegations agreed with the Delegation of Brazil that it was for the Director General to prepare the Draft Agenda, but that it could only be adopted by a vote in the Assembly. He said that he had no objection to the proposal of the Delegation of Brazil, yet was concerned by the fact that other Agreements administered by WIPO, and perhaps also the PCT, contained the same words as those in subparagraph (c). It would be of assistance if the Secretariat could confirm the wording of this provision in the texts of other Conventions and Agreements.

378. The CHAIRMAN said that the Secretariat would study the text and give a reply on the morning of the following day, March 17.

*The meeting rose at 6.05 p.m.*

## FOURTH MEETING

Wednesday, March 17, 10.30 p.m.

DRAFT AGREEMENT (*continued*) (*documents: IPC/DC/2; IPC/DC/6; IPC/DC/10; IPC/DC/11; IPC/DC/13; IPC/DC/14; IPC/DC/26*)

### Article 7 (*Assembly of the Special Union*) (*continued*)

379. The CHAIRMAN recalled that, following a proposal by the Delegation of Brazil on paragraph (4)(c) of Article 7, the Main Committee had asked the Secretariat to examine the solutions adopted in the texts of the other Conventions and Agreements dependent on the Paris Union.

380. Mr. BODENHAUSEN (Director General of WIPO) indicated that the Nice and Locarno Agreements provided, as in document IPC/DC/2, that the agenda was "prepared by the Director General" or that the Director General "shall prepare the Draft Agenda." It was clearly understood, however, that the Assembly had full control over its agenda.

381. The CHAIRMAN concluded that the question was purely one of drafting, and proposed that it be referred to the Drafting Committee.

382. *It was so decided.*

383. The CHAIRMAN observed that paragraph (5) of Article 7 did not give rise to comment.

### Article 8 (*International Bureau*)

384. The CHAIRMAN opened discussions on Article 8.

385. The SECRETARY GENERAL pointed out that this Article was amended by document IPC/DC/6.

386. Mr. SCHURMANS (Belgium) asked whether the "persons designated" in paragraph (3)(c) were the same as the "staff members" referred to in paragraph (2).

387. Mr. BODENHAUSEN (Director General of WIPO) replied in the negative: the provision in paragraph (3) was broader, since the Director General might designate a person outside the Organization.

388. The CHAIRMAN noted that Article 8 did not give rise to further observations.

### Article 9 (*Finances*)

389. The CHAIRMAN opened discussions on Article 9.

390. The SECRETARY GENERAL indicated that this Article was the subject of an amendment proposal by the Delegation of Australia (document IPC/DC/13).

391. Mr. HENSHILWOOD (Australia) said that the purpose of the amendment to Article 9(4) of the draft Agreement, as proposed in document IPC/DC/13, was to enable each country to choose the class in which it wished to be placed for the purposes of the Special Union independently of the choice made for the Paris Union.

392. Mr. PHAF (Netherlands) asked whether the system proposed by Australia was an entirely new system or whether it already featured in other Agreements. In the former case there was a risk of its establishing a precedent.

393. Mr. BODENHAUSEN (Director General of WIPO) replied that it was indeed a new system, which in his opinion

would cause considerable administrative complications without affording comparable advantages to member countries.

394. Mr. BENDIFALLAH (Algeria) said that he had intended to raise the same question as the Delegate of the Netherlands.

395. Mr. HAERTEL (Germany (Federal Republic)) said that, after having heard the statement by the Director General of WIPO, the Delegation of the Federal Republic of Germany considered that the tried and proven class system of the Paris Union, whereby a country chose a specific class, was automatically applicable to the Special Union and should be maintained. Otherwise, after the next revision of all the Special Agreements, the solution might be adopted for all the Agreements, making their administration more costly than before. For that reason the Delegation of the Federal Republic of Germany opposed the proposal.

396. Mr. WINTER (United States of America) supported the statement made by the Delegate of the Federal Republic of Germany.

397. Mr. LABRY (France) said that he was of the same opinion as the Director General of WIPO.

398. *There being no Delegate to support the proposal of the Delegation of Australia, the original text was maintained.*

399. Mr. COUTO (Brazil) asked for an explanation of paragraph (1)(b) of Article 9.

400. Mr. BODENHAUSEN (Director General of WIPO) said that it was a clause which featured in the text of other Conventions and Agreements administered by WIPO.

401. Mr. ARMITAGE (United Kingdom) said that he had instructions from the United Kingdom Treasury to bring up, in connection with Article 9(6)(a) the question of the working capital fund. If the majority favored the retention of this provision the United Kingdom would naturally accept it. However, in the view of the United Kingdom Treasury the modern attitude towards the financing of intergovernmental organizations was not to provide this kind of working capital fund, but to ensure that contributions were made on time and, if it was necessary to have a float of funds, first to call for advances on contributions and then to make budgetary provisions for unforeseen expenditure. He would be interested in hearing any comments on the matter from other Delegates. The time seemed to have come to make some changes in this method of financing.

402. Mr. HOFFMANN (Luxembourg) wished to know whether countries which acceded to the Agreement at a later date would also be required to make the initial payment.

403.1 Mr. BODENHAUSEN (Director General of WIPO) replied in the affirmative. He said that the payment could for instance be a third of the annual contribution.

403.2 As for the procedure adopted for the working capital fund, he recalled the decision of the Stockholm Conference that the system of advances granted by the Swiss Government would be replaced by the use of resources from a working capital fund constituted by the States. Only in the event of these resources proving insufficient would Switzerland be called upon to grant advances. The system applied to BIRPI provided that States paid their contributions during the year following the current year. Under the new system they had to pay it on the first of January of the current year. As payment was never effected on that precise date, a working capital fund was required to cover a certain number of costs such as staff salaries.

It would be unfortunate if the working capital fund system were not adopted by the Special Union: this would be at variance with the conclusions of the Stockholm Conference and would entail asking Switzerland to grant advances immediately, which seemed unjust. Finally, the Director General indicated that the working capital fund could be constituted at the time of the second Assembly of the Special Union, the date of which States would know in advance.

404. Mr. TAKANO (Japan) sought clarification of the word "proportion" in Article 9(6)(b) and (c). It was the understanding of the Delegation of Japan that the amount of payment by a country for the Special Union should be in proportion to its contribution to the Paris Union. As the proportion was already fixed in principle there would certainly be no necessity of its being decided upon by the Assembly, as provided in Article 9(6)(c).

405. Mr. BODENHAUSEN (Director General of WIPO) replied that Classes I to VII would remain the same as for the Paris Convention, and a country which for example chose Class II would have chosen it for both the Paris Convention and the Strasbourg Agreement. Article 9(6)(b) said only that the proportion of the contribution of a country for the year in which the working capital fund was established would determine that country's contribution to the fund. The proportion would be the same for all contributions to the working capital fund; the amount of the payment would be a proportion of the annual contribution for the year in which the fund was created, namely one-third or one-half of the annual contribution.

406. Mr. PHAF (Netherlands) pointed out that the English version of the text of paragraph (6)(b) stated that the amount of the initial payment would be a proportion of the contribution of each country, whereas the French version stated that the amount was proportional to the contribution of each country. He requested examination of this matter by the Drafting Committee.

407. *It was so decided.*

408. The CHAIRMAN noted that Article 9 gave rise to no further questions.

*Article 10 (Amendment of Articles 7 to 10)*

409. The CHAIRMAN recalled that document IPC/DC/6 contained proposals for the amendment of the administrative provisions of the draft Strasbourg Agreement (document IPC/DC/2), including Article 10, which had been incorporated in the text submitted to the Main Committee for discussion. Article 10, entitled "Amendment of Articles 7 to 10" (document IPC/DC/2) had become a new Article 11, entitled "Amendment of Certain Provisions of the Agreement." The Chairman then informed the Committee that the Delegation of the United Kingdom proposed, in document IPC/DC/14, an amendment to Article 10(3) (document IPC/DC/2).

410. Mr. BOWEN (United Kingdom) said that since the amendment had already been incorporated in document IPC/DC/6, the United Kingdom Delegation had no comment to make.

411. The CHAIRMAN proposed that the question be referred to the Drafting Committee. He noted that there were no further comments on Article 10 (document IPC/DC/2).

*Article 11 (Revision of Articles 1 to 6 and 11 to 17)*

412.1 The CHAIRMAN recalled that Article 11, entitled "Revision of Articles 1 to 6 and 11 to 17" (document IPC/DC/2) had become Article 10, entitled "Revision of the

Agreement," as a result of amendments made to the Draft Strasbourg Agreement by document IPC/DC/6.

412.2 He observed that the new text of this Article gave rise to no comment.

*Article 12 (Ratification and Accession; Entry into Force)<sup>1</sup>*

413. The CHAIRMAN indicated that the Delegation of the United States of America had submitted amendments in document IPC/DC/11.

414. Miss NILSEN (United States of America) said that Article 12(4) (document IPC/DC/2) would appear to be unnecessary. Although similar provisions were to be found in other Conventions and Agreements, the Delegation of the United States of America questioned the need for their continued use.

415. Mr. MARINETE (Romania), referring to paragraph (3)(a)(ii), feared that the requirement, for the entry into force of the Agreement, of ratification by a country in which more than 40,000 applications were filed every year constituted undesirable discrimination. He wished to know why the authors of the draft had introduced this provision.

416. Mr. LAURELLI (Argentina) pointed out that document IPC/DC/6 substantially modified Article 12 (document IPC/DC/2) by adding two paragraphs—with which he personally was in agreement—and by placing the existing paragraphs (3) and (4) in a new Article 13. It would be more logical to use that text as a basis for discussion.

417. The CHAIRMAN observed that this was a procedural motion. If the Conference had no objection, he proposed to follow the suggestion of the Delegate of Argentina.

418. *It was so decided, and paragraphs (1) and (2) of Article 12, as amended by document IPC/DC/6, were adopted.*

419. Mr. BOUZIDI (Algeria) pointed out that, if the paragraph (3) proposed in document IPC/DC/6 was adopted, Article 15 was superfluous.

420. *Paragraphs (3) and (4), as appearing in the text of document IPC/DC/6, were adopted.*

421. *Article 12 was adopted as a whole.*

*The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.*

422. The CHAIRMAN proposed that the Steering Committee meet at 2.55 p.m., which would mean postponing the meeting of the Main Committee to 3.15 p.m.

423. *It was so decided.*

*Article 13 (Entry into Force of the Agreement (document IPC/DC/6))*

424. The CHAIRMAN recalled that, in terms of document IPC/DC/6, Article 13 corresponded to paragraphs (3) and

<sup>1</sup> *Editor's Note:* Article 12 of the Draft Strasbourg Agreement (document IPC/DC/2), entitled "Ratification and Accession; Entry into Force" was amended by document IPC/DC/6. Its paragraphs (1) (amended) and (2) have become paragraphs (1) and (2) of the new Article 12, entitled "Becoming Party to the Agreement." New paragraphs (3) and (4) were added to the text of this new Article 12, and the former paragraphs (3) and (4) became Article 13, entitled "Entry into Force of the Agreement."

(4) of Article 12 in document IPC/DC/2, and that the Delegate of Romania had made an observation on paragraph (1)(a) of the new Article 13.

425. Mr. BODENHAUSEN (Director General of WIPO), in reply to the observation, said that the provisions of this paragraph were the exact equivalent of those appearing in other Agreements—the Hague Agreement for example.

426. Mr. MARINETE (Romania) considered that the principle of equality was not respected, since it was required of some countries and not of others that they testify to the filing of 40,000 applications a year. Moreover, he considered it unadvisable to refer to an actual figure, which might vary from one year to the next.

427.1 The CHAIRMAN replied that the inequality objected to was an existing reality, since the European Convention bound a certain number of States which already applied the Classification. As for the figure quoted, it made it possible to ensure that the new countries represented a large share of patent business. It was indeed liable to fluctuate, but it could be noted that for a certain number of years the countries which received more than 40,000 applications a year formed a fairly stable group. In short, the apparent inequality which the Delegate of Romania objected to reflected a real situation of inequality, and was intended to ensure a certain amount of balance at the time of the Agreement's entry into force.

427.2 The Chairman then noted that paragraph (1)(b) and (c) of the new Article 13 did not give rise to any comment, but that the Delegation of the United States of America proposed the deletion of the second paragraph of the Article.

428. Miss NILSEN (United States of America) observed that a large number of Delegations preferred to maintain the provision of the original Article 12(4) (document IPC/DC/2) of which the Delegation of the United States of America had proposed the deletion. In view of the fact that the Delegation of the United States of America itself had no strong feeling on the matter, it withdrew its proposal.

429. *On the withdrawal of the proposal of the United States of America, the original text was maintained.*

#### *Article 13 (Force and Duration of the Agreement)*

430. The CHAIRMAN indicated that Article 13 (document IPC/DC/2), entitled "Force and Duration of the Agreement," which, as a result of the amendments made to the Draft Strasbourg Agreement by document IPC/DC/6, had become Article 14, entitled "Duration of the Agreement," was the subject of an amendment proposal on the part of the Delegation of the United States of America (document IPC/DC/11).

431. Miss NILSEN (United States of America) said that the Delegation of the United States of America had proposed the deletion, in Article 13 (document IPC/DC/2), of the words "force and" on the grounds that they were unnecessary. However, the Delegation of the United States of America did not feel strongly on the matter and suggested that the proposal be submitted to the Drafting Committee for consideration.

432. The CHAIRMAN suggested referring the proposal to the Drafting Committee.

433. *It was so decided.*

#### *Article 14 (Denunciation) and Article 15 (Territories)*<sup>1</sup>

434. Mr. EKANI (African and Malagasy Industrial Property Office (OAMPI)) asked why a period of five years had been imposed in paragraph (3) of Article 14 (document IPC/DC/2).

435. Mr. BODENHAUSEN (Director General of WIPO) replied that the provision was one which already featured in other Conventions and Agreements. The reason for it was that a country acceded to a Convention or Agreement only after much reflection, and should not be allowed to denounce it shortly afterwards.

436. The CHAIRMAN noted that the former Article 14 gave rise to no further comment and recalled that the former Article 15 was no longer applicable.

#### *Article 16 (Signature, Languages, Notification, Depositary Functions)*

437. The CHAIRMAN suggested that the amendment to paragraph (1) proposed by the Delegation of Algeria in document IPC/DC/26 be examined at a later stage, when document IPC/DC/10 came under discussion.

438. *It was so decided.*

439. The Delegations of ARGENTINA and BRAZIL proposed an amendment to paragraph (2) of Article 16 which appeared in document IPC/DC/21.

440. Mr. CABRAL DE MELLO (Brazil) said that the Delegation of Brazil, jointly with the Delegation of Argentina, had submitted the proposals appearing in document IPC/DC/21 concerning Article 16(2), in order that the languages of the official texts of the Agreement might be the same as in the PCT. Translations would be prepared initially by the interested Governments, and the advice of the International Bureau would be sought at a later stage for the establishment of the final text.

441. Mr. GALL (Austria) supported the proposal submitted by the Delegations of Argentina and Brazil.

442. Mr. MARINETE (Romania) also supported the proposal submitted by the Delegation of Argentina and Brazil.

443. Mr. BENDIFALLAH (Algeria) said he too was in favor of the proposal.

444. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) added his support to the proposal submitted by the Delegations of Argentina and Brazil, which would give an additional stimulus to the Agreement.

445. Mr. PHAF (Netherlands) was pleased to note that the position of the Delegation of Brazil came very close to that of the Netherlands with regard to official texts relating to the Classification as mentioned in Article 3. He would support the adoption of a similar solution for Article 16.

446. Mr. LAURELLI (Argentina) considered that the problem of establishing official texts could be solved by recourse to the technical assistance services of the United Nations. In this way neither WIPO nor the Special Union would have to bear additional costs, and countries wishing to establish official texts in their languages could benefit from the assistance of international experts, in particular those who handled international classification at WIPO.

<sup>1</sup> *Editor's Note* : As a result of the amendments made to the Draft Strasbourg Agreement by document IPC/DC/6, Article 14, entitled "Denunciation" became Article 15, the original Article 15 being deleted.

447. The CHAIRMAN pointed out that Article 16 concerned only official texts of the Agreement, in other words documents which were relatively easy to translate. Translation of the Classification itself raised much more formidable problems.

448. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) said that he was in favor of the proposal of the Netherlands Delegation, and thought that countries would not wish to bear the expense of translation into the languages of the other countries of the Special Union. It would be possible to entrust WIPO or any other organization created for the purpose with the task of establishing official texts which might be internationally recognized.

449. Mr. PHAF (Netherlands) was pleased that the question was meeting with such wide agreement. As far as the translation of the Classification was concerned, this should be brought up again in connection with Article 3; it was indeed a very different matter.

450. Mr. HAERTEL (Germany (Federal Republic)) supported the proposal made by the Delegations of Argentina and Brazil, and thought that Article 16 should be so amended as to ensure its conformity with Article 67 of the Patent Cooperation Treaty.

451. Mr. MARINETE (Romania) was entirely in agreement with what the Delegate of the Federal Republic of Germany had said.

452. Mr. STAMM (Switzerland) supported the amendments proposed by the Delegations of Argentina and Brazil and agreed with the proposal just made by the Delegation of the Federal Republic of Germany.

453. Mr. LABRY (France) said that France was in favor of the amendment proposed by Brazil and Argentina.

454. The CHAIRMAN noted that there was widespread agreement for the adoption, without amendment, of the proposal by Argentina and Brazil. He therefore proposed that the amendment be referred to the Drafting Committee.

455. *It was so decided.*

456. Mr. JANKOVIĆ (Yugoslavia) asked whether the two certified copies referred to in paragraph (3)(a) were to be understood to mean the English and French versions of the signed text of the Agreement.

457. Mr. BODENHAUSEN (Director General of WIPO) replied that the copies, like the Agreement itself, would be made in both languages.

458. The CHAIRMAN noted that there were no further comments on Article 16.

#### *Article 17 (Transitional Provisions)*

459. The CHAIRMAN said that no amendment proposal had been submitted concerning this Article.

460. Mr. MARINETE (Romania) was somewhat surprised by the provisions of the first paragraph, and asked if there was a precedent.

461. Mr. BODENHAUSEN (Director General of WIPO) replied that such provisions were in fact rare, indeed to his knowledge there was no precedent. The authors of the draft had thought that States which had for a long time been involved in the European Convention should be allowed to follow the work of the Committee of Experts for a transitional period, albeit a short one, even if they were not yet members of the Special Union.

462.1 Mr. HAERTEL (Germany (Federal Republic)) supported the proposed provision.

462.2 He asked whether there were no transitional provisions concerning the administration of the various Agreements as revised at Stockholm, and whether member countries which had not ratified the WIPO Convention and the Stockholm Acts might be members of the newly-formed administrative bodies of WIPO and those provided for in the Stockholm Acts of the Convention and of the Agreements administered by WIPO.

463. Mr. BODENHAUSEN (Director General of WIPO) confirmed that for all the Conventions and Agreements revised at Stockholm it had been agreed that a simple declaration of provisional application would enable countries which had not yet been able to ratify the texts to take part in the work for a period of five years.

464. Mr. LAURELLI (Argentina) recalled that the Executive Committee of the Paris Union had considered it essential, at its session in September 1968, to give the Convention on the Classification a more universal character and to "place all the contracting parties on an equal footing." In his opinion Article 17 was contrary to this principle in that it tended to give a sort of priority to the European Convention. Perhaps it would be advisable to look for a wording which was better balanced and more true to the wish expressed by the Executive Committee.

465. The CHAIRMAN noted that there were no further observations on Article 17. Therefore, apart from the questions set aside, the Conference had completed its first examination of the draft Agreement.

*The meeting rose at 12.50 p.m.*

## FIFTH MEETING

Wednesday March 17, 1971, 3.30 p.m.

### ORGANIZATION OF THE WORK OF THE CONFERENCE

466.1 The CHAIRMAN said that the Steering Committee, after having reported on the progress of the Conference, proposed that the Main Committee consider the questions set aside earlier, other than those to which document IPC/DC/10 related.

466.2 The Drafting Committee could then hold a first organizational meeting while a Working Group examined the language question, as had been suggested by the Delegation of Argentina.

467. *The creation of the Working Group was adopted in principle.*

468. The CHAIRMAN suggested that the Working Group should be composed of members of Delegations which had shown particular interest in the language question, namely the Delegations of Algeria, Argentina, Brazil, Germany (Federal Republic), Japan, the Netherlands, Spain, the United Kingdom and the United States of America.

469. *The Working Group was thus formed.*

### DRAFT AGREEMENT. EXAMINATION OF QUESTIONS SET ASIDE (*documents: IPC/DC/10; IPC/DC/12; IPC/DC/17; IPC/DC/23; IPC/DC/27*)

470. Mr. PHAF (Netherlands) recalled that his Delegation had submitted an amendment (document IPC/DC/17) to Article 4 concerning regional patents. As a result of

talks with the other interested Delegations, he thought that they might accept a more binding system than the one he had originally proposed. He did not consider it necessary to set up a study group to examine this question, and proposed that it be referred to the Drafting Committee.

471.1 The CHAIRMAN said that this matter would be taken up again when Article 4 was reached.

471.2 He proposed to the Main Committee that it undertake the examination of the provisions which had been set aside, on the understanding that those covered by document IPC/DC/10 would not be examined until the following morning.

471.3 He said that the Delegations of Argentina and Brazil proposed the insertion, between the third and fourth paragraphs of the Preamble, of a new paragraph worded as follows: "In view of the importance of this Classification to developing countries, which gives them easier access to the ever-expanding volume of modern technology,"

472. Mr. BENDIFALLAH (Algeria) supported this proposal.

473. The CHAIRMAN noted that the Main Committee gave this text a favorable reception and understood the consideration which had inspired it. He proposed that it be referred to the Drafting Committee.

474. *It was so decided.*

*Article 1 (Establishment of a Special Union; Adoption of an International Classification)*

475. The CHAIRMAN recalled that the Delegation of the United Kingdom had proposed the deletion of the word "patent" in the text of this Article. Thus the official title of the Classification would not require amendment, but the United Kingdom wished to have it specified somewhere that the usual abbreviation remained "Int. Cl."

476. Mr. ARMITAGE (United Kingdom) said that if Article 4(5) was dealt with satisfactorily his Delegation had no objection to the Title and Article 1 referring to the "International Patent Classification," and was prepared to withdraw the United Kingdom proposal regarding Article 1.

477. The CHAIRMAN thanked the Delegate of the United Kingdom and said for the benefit of the Drafting Committee that the new text should on no account lead to a change in the symbols for the classification of documents as appearing in Article 4.

478. Mr. RODRIGUEZ PADILLA (Cuba) said that his Delegation was taking for its own a proposal appearing in document IPC/DC/10, which entailed replacement of the words "International Patent Classification" by "International Classification of Inventions." He wished to have this question settled that same afternoon.

479. The CHAIRMAN thought that the Main Committee might consider the title of the Classification now.

480. Mr. RODRIGUEZ PADILLA (Cuba) said that the expression "International Classification of Inventions" seemed preferable to "International Patent Classification" since it had a wider scope which would apply, for instance, to industrial designs. The International Classification should be not only for patents but for all inventions. This would not call for changes in the symbols and abbreviations currently in use. It would even be possible to retain the initials which most countries already used.

481. Mr. BOUZIDI (Algeria) considered it preferable that this matter be examined at once by the Main Committee rather than by the Drafting Committee.

482. The CHAIRMAN replied that examination of the matter was possible only because the Delegation of Cuba had taken for its own a proposal in document IPC/DC/10.

483. Mr. ARMITAGE (United Kingdom) said that it could be argued that classification was meant to embrace the whole of a document, in other words the whole invention. Classification was used to index not only the invention, but all technology disclosed in the title of protection. The Main Committee should resist any change in the title if such change was unnecessary.

484. Mr. MARINETE (Romania) said that he was in favor of the proposal of the Delegation of Cuba. The expression "International Classification of Inventions" corresponded closely to the purpose of the Classification.

485. Mr. WAHL (United States of America) urged that the word "patent" should remain associated with the International Classification. The use of "invention" rather than "patent" was misleading. New or novel designs which received protection were inventions, but designs had their own Classification. The provisions of Article 2(1) of the Patent Cooperation Treaty included documents which generally afforded a degree of protection to inventions disclosed and made available to the public. The word "patent" was of value and should be retained.

486. Mr. PHAF (Netherlands) wished to maintain the title in its present form.

487. Mr. HAERTEL (Germany (Federal Republic)) considered that although the present title might not cover the matter completely, whatever title was chosen could not cover the whole range and content of the Classification. It was generally agreed that the Classification covered not only patents but also inventors' certificates and utility models. The Delegate of the Federal Republic of Germany supported the retention of the existing title, at the same time admitting that the abbreviation would undoubtedly be used in most cases.

488. The Delegations of AUSTRALIA, JAPAN, SWEDEN and SWITZERLAND said they were in favor of the maintenance of the existing title.

489. The CHAIRMAN remarked that no title could be perfect, and that the scope of the proposed Classification was clearly specified in Article 1. He noted moreover that a large number of Delegations wished to retain the title "Patent Classification," which was already used in other Conventions and Agreements. He asked the Delegation of Cuba whether, under the circumstances, it wished to press its proposal.

490. Mr. RODRIGUEZ PADILLA (Cuba) would not demand a vote on this point.

*Article 3 (Languages of the Classification)*

491. The CHAIRMAN said that there were no further observations on Article 3.

*Article 4 (Legal Scope and Use of the Classification)*

492. The CHAIRMAN recalled that the Conference had three amendments to consider with respect to paragraph (3) of Article 4: document IPC/DC/12 from Australia, document IPC/DC/23 from the United States of America and document IPC/DC/27, in which the Delegation of Australia submitted an amendment to the text proposed by the United States of America.

493. Mr. HENSHLWOOD (Australia) said that Australia published a list of specifications open for public inspection,

but did not include the symbols of the Classification. He was not opposed in principle to indicating the symbols in unpublished documents, but was unable to ascertain at once what burden it would impose on the Australian Patent Office. He thought that it should be a matter of volition rather than compulsion at this stage as to whether countries indicated the symbols of the Classification on unprinted documents.

494. Mr. PHAF (Netherlands) suggested that the discussion should be limited to the contents of document IPC/DC/23.

495. The CHAIRMAN admitted that the sheer volume of documents submitted to the Conference did not simplify its task. He proposed that discussion be confined for the moment to the proposal of the United States of America (document IPC/DC/23).

496. Mr. HENSHILWOOD (Australia) said that if the proposals of the Delegation of the United States of America (document IPC/DC/23) were accepted, he would withdraw the proposal of the Delegation of Australia contained in document IPC/DC/12.

497. The CHAIRMAN invited Delegates to express their views on document IPC/DC/23. Referring to Article 4(3)(i), he asked what was the meaning of the square brackets round the end of the sentence.

498. Mr. PFANNER (Secretary of the Main Committee) thought that it would be preferable to retain the portion of the text contained within the brackets and request the Drafting Committee to consider Article 4(3) as a whole.

499. Mr. PHAF (Netherlands) did not see any need to retain Article 4(3)(ii) if part of Article 4(3)(i) remained in brackets.

500. Mr. PFANNER (Secretary of the Main Committee) felt that provided the Main Committee laid down the principles, the Drafting Committee could choose the wording best suited to the solution of the problem.

501. Mr. WAHL (United States of America) considered that some of the confusion over Article 4(3)(i) might be cleared if the bracketed part—“[it being understood that applications which have only been laid open for public inspection are not considered published applications]”—were inserted immediately after the comma following “public inspection” in subparagraph (ii).

502. The CHAIRMAN thought that the suggestion of the Delegate of the United States of America was a good one, but that it was preferable to refer the matter to the Drafting Committee since everyone agreed on the substance.

503. Mr. TAKANO (Japan) said that the Delegation of Japan still did not have a clear picture of the problem. According to the original text of Article 4(3), the Agreement was not intended to impose a legal obligation with regard to applications merely laid open for public inspection. Yet according to the text of the amendment to Article 4(3)(ii) proposed by the Delegation of the United States of America there would indeed be a legal obligation.

504. Mr. PFANNER (Secretary of the Main Committee) agreed that Article 4(3) was not crystal clear as it appeared in document IPC/DC/2. The debate had brought to light an interest not only in clarifying the terminology but also in creating an obligation to classify—albeit only to a certain extent—applications merely laid open for public inspection. Therefore the amended version contained in document IPC/DC/23 attempted to clarify first that there was a distinction between published applications and applications only laid open for public inspection; second, that there was an obligation in both cases and third, that for applications merely laid open the situation might be made

easier for certain countries by a reservation releasing them from the obligation to go down to the finest subdivisions of the Classification.

505. Mr. TAKANO (Japan) said that, according to the explanation given by Mr. Pfanner at the Main Committee meeting the previous day, “published” did not mean publication made merely by laying open for public inspection. It was surely unnecessary, therefore, to include paragraph (3)(ii) in Article 4.

506. Mr. ARMITAGE (United Kingdom) said that there was a distinction between “published” in the sense of dissemination by printing and “published” in the sense of laying open for public inspection. The word “published” taken alone was ambiguous. As it had been thought necessary in the PCT to define “published,” it was similarly necessary to define it in the Agreement.

507.1 Mr. GALL (Austria) said it should be very clearly emphasized that the interpretation of the present text of the Draft Agreement (document IPC/DC/2) was that there was no obligation to apply the International Classification or its symbols to documents merely laid open.

507.2 The purpose of the proposal submitted by the Delegation of the United States of America was to enlarge the obligation. Australia and Ireland had certain special problems: Ireland did not wish to apply the complete symbols, and Australia did not wish to apply any symbols at all to the documents mentioned in Article 4(3)(ii). Provision for both cases was therefore justified. It was very important that the International Classification should be applied as widely as possible. On the other hand obligations should not be imposed in such a way as to preclude use of the Classification by some countries.

508. Mr. PHAF (Netherlands) was sorry to see the discussion becoming more and more fogged. He had always thought that the intention of the proposal by the United States of America was to make the obligations of countries using the Classification lighter than those prescribed by the Draft Agreement (document IPC/DC/2). The proposal now seemed to be making those obligations heavier.

509.1 Mr. WAHL (United States of America) replied that the intention had certainly not been to place a heavier burden on any country. Indeed the idea was that after the incorporation of the amendment proposed by Australia the burden on countries availing themselves of the reservation clause would be considerably lightened.

509.2 While it was true that Article 4(3)(ii) provided that applications merely laid open for public inspection should bear the complete symbols of the Classification, the reservation clause—particularly after inclusion of the amendment proposed by the Australian Delegation (document IPC/DC/12)—provided either that no symbols at all need be put on or that symbols need only be put on down to subclass level.

510. Mr. SLAVIN (Ireland) said that the amendment to Article 4(3) proposed by the Delegation of the United States of America removed any difficulty Ireland might have encountered in accepting the Agreement.

511. Mr. PHAF (Netherlands) did not oppose the proposal by the United States of America, but would be very reluctant to accept that of the Delegation of Australia which, in his opinion, amounted to relieving certain countries of any obligation.

512. Mr. BODENHAUSEN (Director General of WIPO) explained for the benefit of the Delegate of the Netherlands that the amendment proposed by the Delegation of Australia concerned only applications laid open for public inspection. In other cases the obligation to use the complete symbols of the Classification remained.

513. Mr. ARMITAGE (United Kingdom) supported the proposal of the Delegation of the United States of America. It seemed reasonable to allow for a lesser obligation with respect to documents laid open for public inspection. However, the Delegation of the United Kingdom was reluctant to go as far as the amendment proposed by the Delegation of Australia, although it understood the difficulties which had given rise to it. If the Australian Government were able to assume this relatively small obligation in relation to documents laid open for public inspection, it would be a pity to have written into the Agreement a specific reservation for countries which in fact would never need to use it.
514. The CHAIRMAN recalled that the rule was to vote first on the amendment farthest removed from the proposed text. However, since the amendment proposed by Australia was in fact a sub-amendment to the amendment proposed by the United States of America, it would perhaps be more logical to vote first on the amendment proposed by the United States of America.
515. Mr. TUXEN (Denmark) pointed out that in Denmark the system for the grant of patents involved the laying open of applications for public inspection without printing. The Delegation of Denmark found the proposal by the Delegation of the United States of America acceptable.
516. Mr. GALL (Austria) said that, as he understood it, the system of the International Patent Classification would be applied at least down to subclass level in Australia. In view of the fact that the Strasbourg Agreement was to be worldwide and was to include all the countries which used the Classification, it should not be made too restrictive.
517. Mr. PHAF (Netherlands) suggested that it would not be a major hindrance to Australia if such a system were applied in that country. Unquestionably there was a difficulty, but it could probably be overcome.
518. Mr. HENSHILWOOD (Australia) said that he was not opposed in principle to applying the symbols to unpublished applications; he had merely not had the time to investigate the requirements. In the future Australia might apply the symbols of the Classification not only down to subclass level but also down to subgroup level. With regard to printed specifications, the symbols had been used down to subclass level for thirteen years, and investigations were being carried out to see how the system could be brought down to subgroup level. The Delegate of Australia objected to the requirement that there should be an element of compulsion at the outset, since this was a new measure introduced into the draft Agreement in the course of the present meeting. Previously the draft Agreement had contained no indication that there was to be a specific requirement. On that point the Delegate of Australia opposed the obligations embodied in the amendment proposed by the Delegation of the United States of America.
519. Mr. WAS (International Chamber of Commerce (ICC)) thought that the worries felt by Australia were of a temporary nature. Under the system of the Patent Cooperation Treaty a large number of patent applications filed in Australia, which was a large-scale importer, would already have been classified according to the International Patent Classification by the International Searching Authority. In future the task would be much easier.
520. Mr. PFANNER (Secretary of the Main Committee) said that the question of classification arose only at a certain stage of the examination procedure and not at the beginning, just after filing. It was to be expected that a great number of applications from foreign countries filed in Australia would already be classified according to the International Patent Classification, so that there would not be much additional work. The major work would be confined to national applications.
521. Mr. ARMITAGE (United Kingdom), raising a point of order, asked whether it was not usual to vote on an amendment to an amendment before considering a substantive proposal. He suggested that this was a better way to proceed.
522. The CHAIRMAN was quite prepared to put the sub-amendment proposed by Australia to the vote first if the Conference so wished.
523. *The amendment proposed by the Delegation of Australia was rejected by 10 votes to 3, with 19 abstentions.*
524. *The amendment proposed by the United States of America (document IPC/DC/23) was adopted and referred to the Drafting Committee.*
525. The CHAIRMAN recalled that the Delegation of the Netherlands had submitted an amendment for insertion after paragraph (3) of Article 4 (document IPC/DC/17). It had been suggested that the Drafting Committee devise a more binding text.
526. *It was so decided and the amendment was referred to the Drafting Committee.*
- 527.1 Mr. BONETE (Togo) proposed the substitution of the following text for paragraph (4) of Article 4: "Countries party to the present Agreement may, at the time of signature or of the deposit of their instruments of ratification or accession, declare that they will apply the International Classification progressively starting with subclass level."
- 527.2 A survey by the International Bureau had revealed that member countries of OAMPI used the International Classification at class level only, and for the moment could not go further. For that reason a paragraph had been provided in Article 4 which allowed countries which did not make a novelty examination or whose grant procedure did not entail a report on the state of the art to declare that they reserved the right not to apply the symbols relating to the groups and subgroups. However, developing countries, which sought a constant strengthening of international cooperation, did not want the Agreement to sanction too great a difference between themselves and industrialized countries. They far preferred a system of material, technical and financial aid which would enable them to apply the Classification fully. This was the meaning of the amendment. What had to be done was activate the attention of rich and poor countries alike, in the general interest of cooperation. Naturally the Delegation of Togo was prepared to consider amendments to the text, which was perhaps somewhat abrupt and hastily drafted.
528. Mr. PHAF (Netherlands) said that the debate appeared to be becoming confused again. The amendment proposed by Togo was of exactly the same kind as those which the Conference had just examined. For its part the Netherlands could not accept a formula which in fact would be applicable to all countries of the world. There should at least be some specification of criteria or periods.
529. The CHAIRMAN remarked that, in view of the small number of filings in developing countries, it should not be difficult to solve this problem with technical assistance. The Paris Convention and the Patent Cooperation Treaty contained provisions which might be used to bring developing countries progressively down to subclass level.
- 530.1 Mr. EKANI (African and Malagasy Industrial Property Office (OAMPI)) said that the African and Malagasy countries were prepared to comply with all the obligations prescribed by the Agreement on condition that they were allowed to do so over a period of time. Article 65 of the Patent Cooperation Treaty allowed for this possibility of progressive application. There was nothing scandalous, therefore, in making a similar provision in the Agreement.



It appeared that the Conference was unwilling to accept this idea; however, the authors of the amendment were prepared to consider any adjustments.

530.2 The fact remained that, as the Delegate of Togo had pointed out and as a survey by the International Bureau had shown, the countries of OAMPI were currently still at class level. There was now a move to force them down to subclass level. The purpose of the amendment was to deal with the problems with which this would confront them. Mr. Ekani hoped that the Conference would adopt it and that the International Bureau would afford assistance to offices such as the one he represented, thereby enabling them to meet their commitments.

531. The CHAIRMAN recalled that the Drafting Committee and Working Group II were now to meet. He therefore proposed to postpone continuation of the debate to the next meeting, on the understanding that the General Report would mention the intervention of the Delegates of Togo and OAMPI.

532. Mr. PHAF (Netherlands) apologized to the Delegate of Togo for having said that he was making a proposal on matter which had already been dealt with.

533. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) thought that the difficulty could be overcome if the amended paragraph (4) began as follows: "Developing countries party to the present Agreement may..."

*The meeting rose at 5.25 p.m.*

## SIXTH MEETING

Thursday, March 18, 1971, 10.10 a.m.

### ORGANIZATION OF THE WORK OF THE CONFERENCE

534. The CHAIRMAN opened the meeting and said that it was necessary to organize the work of the Conference.

535. The SECRETARY GENERAL said that the Officers of the Conference expected the Main Committee to finish its work in the course of that day. The Drafting Committee would meet on the Friday and the Saturday. On the following Monday morning the Main Committee could examine all the texts which constituted the Final Act and the Agreement. The Plenary would meet on the Monday afternoon at a time which would be determined by the number of amendments made to the texts examined in the morning. If there were very many amendments, the Plenary would be postponed to the Tuesday morning. In any event the diplomatic instruments would be ready in time for signature to take place on the Wednesday morning.

536. *It was decided to postpone the meeting of the Plenary.*

### DRAFT AGREEMENT. EXAMINATION OF QUESTIONS SET ASIDE (continued) (documents: IPC/DC/15; IPC/DC/21; IPC/DC/24; IPC/DC/25; IPC/DC/26; IPC/DC/28; IPC/DC/29; IPC/DC/30)

537. The CHAIRMAN, after having expressed the hope that the Main Committee would find a satisfactory solution to all the questions set aside, recalled that only amendments submitted by a Delegation present at the Conference might be considered.

### Article 5 (Committee of Experts)

538.1 The CHAIRMAN indicated that two amendments, appearing in documents IPC/DC/15 and IPC/DC/24, a report by Working Group I (document IPC/DC/29) and an amendment proposed by the Delegation of Algeria (document IPC/DC/30) concerned Article 5.

538.2 On account of the order of the provisions, it was logical to start by examining the last-mentioned amendment.

539.1 Mr. BOUZIDI (Algeria) said that his country's proposals were dictated by the desire to increase the possibility of making the Agreement appeal to as many countries as possible. They were by no means intended to detract from the merits of the Council of Europe which, with WIPO, was the host organization.

539.2 On the contrary, Algeria acknowledged the commendable spirit of cooperation which the Council of Europe had shown, and paid tribute to its work. Furthermore, the amendment proposed by the Delegation of Algeria by no means ruled out the possibility of the Council of Europe attending all the bodies of the Special Union. Indeed it could be expressly mentioned in the General Report that the Council of Europe was included among the international organizations which might be represented by observers. However, if the Agreement was to be ratified by as great a number of countries as possible, it seemed preferable to delete paragraph (2)(a) of Article 5.

540. Mr. GOLSONG (Council of Europe) thanked the Delegation of Algeria for its appreciation of the efforts of the Council of Europe towards the establishment of an International Patent Classification. He had no objection to the adoption of the amendment in the spirit in which the Delegate of Algeria had just presented it. The Preamble of the Agreement mentioned, in its second paragraph, the important part played by the Council of Europe in the Patent Classification. If everyone agreed to acknowledge in the General Report of the Conference that the Council of Europe was included among the organizations mentioned in paragraph (2)(b), paragraph (2)(a) could very well be deleted. However, the problem would arise again in Article 7, where a precise legal formula would have to be found to define the conditions of participation of the Council of Europe.

541. The CHAIRMAN expressed his sincere thanks to Mr. Golsong and asked him to convey his feelings to the Secretary General of the Council of Europe: the Conference paid tribute to the generosity shown, once again, by the Council of Europe, to which so much gratitude was already due.

542. Mr. RODRIGUEZ PADILLA (Cuba) supported the proposal of the Delegation of Algeria.

543. Mr. MARINETE (Romania) also supported the proposal.

544. *The proposal of the Delegation of Algeria was adopted.*

545. The CHAIRMAN announced that Working Group I had unanimously decided to propose the retention of paragraph (2)(b) in its original form, which meant the withdrawal of the amendment contained in document IPC/DC/15.

546. *Paragraph (2)(b) was adopted.*

547. The CHAIRMAN indicated that the Delegation of Austria proposed the following wording for paragraph (2)(c): "The Director General shall, on his own initiative or at the request of the Committee of Experts, invite re-

representatives of other intergovernmental and international non-governmental organizations to participate in discussions of interest to them."

548. Mr. GALL (Austria), introducing the amendment to Article 5(2)(c) of the Draft Agreement, as contained in document IPC/DC/24, said that the underlying intention was to harmonize the provision in that Article with that of Article 56(2)(d) of the Patent Cooperation Treaty. The wording of the amendment was simple and no further explanation was necessary.

549. Mr. HENSHILWOOD (Australia) supported the proposal submitted by the Delegation of Austria, also considering that the provisions of Article 5(2)(c) should be harmonized with previous Conventions and Agreements.

550. Mr. ARMITAGE (United Kingdom) had no objection in principle to the amendment submitted by the Delegation of Austria, as it afforded a little more freedom to international organizations to participate in the work of the Committee of Experts.

551. Mr. LAURELLI (Argentina) supported the proposal of the Delegate of Austria. Experience with the Patent Cooperation Treaty had demonstrated the usefulness of a flexible system whereby the Director General might, if necessary, consult representatives of other organizations. The amendment could perhaps be more precisely drafted; as far as substance was concerned, however, it was based on an excellent principle.

552. Mr. PHAF (Netherlands) said that he had no objection to the proposal by the Delegation of Austria.

553. Mr. MAST (Germany (Federal Republic)) had no objection to the amendment proposed by the Delegation of Austria, but he wished to point out that paragraph (2)(b) would have to be amended accordingly.

554. The CHAIRMAN proposed that the matter be referred to the Drafting Committee for examination.

555. Mr. VON KELLER (Germany (Federal Republic)), speaking in his capacity as Chairman of the Drafting Committee, agreed.

556. *Document IPC/DC/24 was referred to the Drafting Committee.*

557. The CHAIRMAN announced that Working Group I proposed the deletion of paragraph (2)(d) of Article 5.

558. *Paragraph (2)(d) of Article 5 was deleted.*

559. The CHAIRMAN announced that Working Group I proposed the following wording for paragraph (3) of Article 5: "The Committee of Experts shall adopt its own Rules of Procedure which shall, inter alia, allow for the possibility of participation of intergovernmental organizations, referred to in paragraph (2)(b), which can perform substantial work in the development of the Classification, in meetings of its subcommittees and working groups."

560. Mr. LAURELLI (Argentina) stressed the competence of the Technical Committee of UNCTAD in international classification matters, and said that in his opinion that Organization corresponded exactly to the definition given in paragraph (3) of Article 5. He asked whether UNCTAD might attend the meetings of the subcommittees and working groups of the Committee of Experts.

561. The CHAIRMAN reminded the Delegate of Argentina that there was a tendency for the Conference to remove any mention of a particular organization from the actual text of the Agreement. However, this would of course not prevent the Committee of Experts from calling on UNCTAD.

562. Mr. ARMITAGE (United Kingdom) said that, in order to achieve a consensus, Working Group I had proposed to the Main Committee and the Conference that certain intergovernmental organizations be allowed, as of right, to attend meetings of the Committee of Experts and its subcommittees and working groups, yet without specifying that they might do so in a member capacity. A favorable mention of IIB was made in paragraph 4 of the report of Working Group I (document IPC/DC/29), in view of the importance of the work performed by it. The wording proposed in the said paragraph 4 would naturally be subject to revision by the Drafting Committee.

563. Mr. BODENHAUSEN (Director General of WIPO) pointed out that the texts adopted so far mentioned three categories of intergovernmental organizations: those which specialized in the patent field, those which, following a proposal by Austria, might be invited to send observers to the Committee of Experts, and then those which could make a contribution to the development of the Classification. In his opinion UNCTAD was not specialized in the patent field, tending rather to fall into the second category; it was in that capacity, therefore, that it could be invited by the Committee of Experts to be represented as its meetings by observers.

564. The CHAIRMAN said that he shared this view.

565. Mr. LAURELLI (Argentina) said that he had not proposed that UNCTAD be actually named in the text of the Agreement. Yet a solution should be found whereby in future any organization which made a substantial contribution to work undertaken in the patent field might take part in meetings of subcommittees and working groups of the Committee of Experts. This would apply to organizations like UNCTAD or WIPO, or to Committees of Scientific Experts set up under the auspices of the United Nations. Under those conditions Mr. Laurelli, far from opposing paragraph 4 of document IPC/DC/29, said that in fact it was in line with his own concerns.

566.1 Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) drew attention to Resolution 2726 (XXV), "Resolution on the Transfer of Technology, Including Know-How and Patents," adopted by the United Nations General Assembly on December 15, 1970, from which he quoted the following paragraph: "The General Assembly (...) recognizes that the adoption of concerted measures and the implementation by developed and developing countries and competent international organizations of a program of technology to developing countries constitutes an important element of the International Development Strategy for the Second United Nations Decade."

566.2 The Resolution stressed the role which the United Nations Conference on Trade and Development would be called upon to play, within the scope of its competence, in this program; it would, in particular, be asked to consider studies and, as appropriate, suggest measures aimed at broadening and facilitating the conditions for the transfer of operative technology to developing countries, with the object of satisfying the needs of those countries, taking fully into account the special requirements of the least developed among the developing countries.

566.3 The Resolution reaffirmed the need for the United Nations Conference on Trade and Development to pursue its work on the transfer of operative technology to developing countries on a continuing basis and requested countries members of the United Nations Conference on Trade and Development to give their fullest support to the Intergovernmental Group on Transfer of Technology of UNCTAD.

566.4 The former Article 5(2)(b) had been more flexible regarding the possible participation of UNCTAD in meetings of the Committee of Experts. The suggestion made in

paragraph 5 of the report of Working Group I (document IPC/DC/29) on Article 5(3) weakened the former Article 5(2), which had envisaged the possible participation of organizations which might not come under paragraph (2)(b) but under paragraph (2)(c) in the work of subcommittees or working groups. The participation of UNCTAD would of course be appropriate only when it was in line with the objectives of UNCTAD as set out in Resolution 2726 (XXV) to which he had referred earlier.

567. Mr. EKANI (African and Malagasy Industrial Property Office (OAMPI)) considered that a Committee of Experts always had the possibility of calling on persons and organizations whose services it might need for its work. He asked whether, if it were specified that only organizations which could make a substantial contribution to the development of the Classification might take part in meetings of the subcommittees and working groups, this would mean exclusion of experts from private firms whose knowledge might be very useful. He wondered therefore whether the provision which he had just mentioned was really necessary. If the Main Committee considered that it was, he would not oppose its adoption.

568.1 Mr. WINTER (United States of America) said that the Delegation of the United States of America endorsed the remarks made by the United Kingdom Delegate. The IIB had a special role to play and also possessed expertise in the highly technical field of patent classification. It was therefore desirable that it should be mentioned.

568.2 The Delegation of the United States of America considered that the proposed amendment to paragraph 3 of the report of Working Group I (document IPC/DC/29) clarified the problem of invitations sent to intergovernmental and international non-governmental organizations and the role they would play in meetings of the Committee of Experts. The Delegation of the United States of America fully approved the report of Working Group I.

569. Mr. LAURELLI (Argentina) did not think that his position was very far removed from that of the Delegations of the United Kingdom and the United States of America, and WIPO. He approved of document IPC/DC/29, especially paragraph 4. He proposed to draft, with the Rapporteur General, a paragraph for inclusion in the General Report which would set out the interpretation of Article 5 by the Delegation of Argentina.

570. The CHAIRMAN noted that the only amendment proposals relating to Article 5 came from Working Group I. Apart from that Algeria had suggested that the General Report should stress the part played by the Council of Europe. If other Delegations had suggestions to make, it would be preferable that they communicate them directly to the Rapporteur General, who would then be able to make a general proposal concerning Article 5.

571. Mr. VON KELLER (Germany (Federal Republic)), taking the floor in his capacity as Chairman of the Drafting Committee, said that he understood Article 5 to distinguish between three categories of organizations. First there were the intergovernmental organizations "specialized in the patent field," referred to in paragraph (2)(b). Then, under paragraph (2)(c), in the new form given it by the amendment of the Delegation of Austria, there were the intergovernmental or international non-governmental organizations which the Director General might invite to participate in discussions. Finally, Working Group I, in the text it proposed for paragraph (3), mentioned intergovernmental organizations "which can perform substantial work in the development of the Classification." Yet the same text specified that the latter were organizations "referred to in paragraph (2)(b)." It would seem therefore that the third group was in fact a subgroup coming under paragraph (2)(b), and there was a risk that paragraph (3), thus drafted, might be interpreted as a restriction to the earlier paragraph.

572. Mr. BODENHAUSEN (Director General of WIPO) said that an organization able to perform substantial work in the development of the Classification was bound to be specialized in the patent field. The third group therefore was indeed part of the first, the difference being that paragraph (2)(b) introduced representation as of right, whereas paragraph (3) granted certain organizations, in addition, the opportunity to take part in the meetings of working groups.

573. Mr. VON KELLER (Germany (Federal Republic)), again speaking in his capacity as Chairman of the Drafting Committee, said that he was not entirely satisfied with this reply. He proposed to analyze thoroughly the implications of the text.

574. Mr. LAURELLI (Argentina) suggested that interested Delegations should consult with the Rapporteur General and the Secretary of the Drafting Committee to prepare a text concerning the problems raised within Working Group I, especially those which involved Togo.

*The meeting was suspended at 11.30 a.m. and resumed at 12 noon*

575.1 The CHAIRMAN informed the Main Committee that the suspension of the meeting had enabled the Rapporteur General to collect suggestions by Delegates and observers on the subject of the drafting of the part of the General Report which would relate to Article 5. It had been agreed that this part of the Report would be submitted to the Drafting Committee, in order to avoid any difficulties at a later stage.

575.2 He also indicated that the Delegate of Argentina intended to submit a proposal for the amendment of the same Article 5.

576. Mr. LAURELLI (Argentina) said that, after having consulted the Delegates of Togo and the United Kingdom, the observers from OAMPI and the IIB, the Rapporteur General and Mr. Pfanner, Secretary of the Drafting Committee, he was going to propose a text which would come after paragraph (4)(c) of Article 5. The purpose of the text would be to stress the interest to developing countries of using the International Classification, and to facilitate such use by reducing its cost.

#### *Article 7 (Assembly of the Special Union)*

577.1 The CHAIRMAN recalled, after having pointed out that Article 6 had been adopted earlier, that Article 7 was the subject of several amendment proposals. The proposal contained in document IPC/DC/25 had been referred to Working Group II. As for the amendments appearing in documents IPC/DC/15 and IPC/DC/30, they both related to paragraph (1)(c) but might be regarded as separate amendments, because their object was different.

577.2 The Chairman therefore asked Delegates to present their observations on document IPC/DC/30.

578. Mr. ARMITAGE (United Kingdom) suggested that if Article 7(1)(c) were amended by deleting the words "The Secretary General of the Council of Europe" and substituting the words "any intergovernmental organization as defined in Article 5(2)(b)" (document IPC/DC/15), the Delegation of Algeria might agree to withdraw its proposed amendment, which consisted in the deletion of Article 7(1)(c).

579. Mr. GOLSONG (Council of Europe) considered that it was advisable to retain the right of the Secretary General of the Council of Europe to be represented at meetings of the Assembly. The situation would be different, however,

if the proposal appearing in document IPC/DC/15 were approved, and it would then be possible to adopt a solution similar to the one adopted for Article 5. Mr. Golsong felt, however, that the word "visée" used in the French version of document IPC/DC/15 was more precise than the word "defined" in the English version. He suggested therefore that the English text be brought into line with the French.

580. Mr. BENDIFALLAH (Algeria) repeated that the amendment to Article 7 proposed by his Delegation, like the amendment to Article 5 which it had endorsed, was inspired by the desire to remove from the text of the Agreement anything which might lessen its universal scope. The Delegation of Algeria shared the view expressed by Mr. Golsong, and it proposed that the Drafting Committee prepare a text in consultation with the representative of the Council of Europe and the Delegate of the United Kingdom.

581.1. The CHAIRMAN thanked the Delegate of Algeria for the spirit of cooperation he had shown. He noted that, as far as substance was concerned, the Delegation of Algeria accepted the United Kingdom amendment, subject to more precise drafting, in which the Secretary General would be glad to allow a representative of the Council of Europe to take part.

581.2 He then invited the Main Committee to express its views on paragraph (1)(c), which was worded as follows: "Any intergovernmental organization as defined in Article 5(2)(b) may be represented by an observer at the meetings of the Assembly, and, if it so decides, at those of such committees or working groups as may have been established by it."

582. Mr. PHAF (Netherlands) wished to know to what the two uses of the word "it" referred.

583. The CHAIRMAN said that the word referred to the Assembly in both instances. The drafting was indeed somewhat cumbersome, but it was not ambiguous. The Drafting Committee could no doubt improve on it.

584. *Paragraph (1)(c) of Article 7 was adopted, subject to a possible drafting change.*

585. The CHAIRMAN, having been unable to examine the report of Working Group II, which among other things concerned the amendment contained in document IPC/DC/25 submitted by Argentina and Brazil, proposed that its consideration be postponed to the afternoon meeting, and that the Main Committee proceed to Article 16.

586. *It was so decided.*

#### *Article 16 (Signature, Languages, Notifications, Depositary Functions)*

587. The CHAIRMAN said that two amendments to this Article had been proposed, one by Algeria (document IPC/DC/26) and the other by Brazil, France, Germany (Federal Republic), the United Kingdom and the United States of America (document IPC/DC/28). Since the latter amendment was farthest removed from the original text, it should be discussed first.

588. Mr. CABRAL DE MELLO (Brazil) outlined the amendments proposed in document IPC/DC/28.

589.1 The CHAIRMAN pointed out that Article 16 was based on provisions appearing in the Patent Cooperation Treaty. It provided for a signature period, with a cut-off date, and a subsequent period during which the accession of new States might be received, this taking place within the World Intellectual Property Organization, as the Council of Europe would no longer be involved. It was therefore

a provision which corresponded to the concern about universal character expressed by a number of speakers.

589.2 The CHAIRMAN proposed that the amendment be examined paragraph by paragraph, yet bearing in mind that those paragraphs formed a whole.

590. Mr. LAURELLI (Argentina) pointed out that paragraph (2), which was not affected by the amendment, related to the language problem and was already referred to in document IPC/DC/21, submitted by the Delegations of Argentina and Brazil.

591. The CHAIRMAN confirmed the statement made by Mr. Laurelli. The Conference had approved the proposals contained in that document, and it was understood that the new text was the one which Brazil wished to retain without change.

592. Mr. BENDIFALLAH (Algeria) wished to pay tribute to all the Organizations which, by dint of meticulous and thorough work, had succeeded in providing all countries of the world with an instrument as precise and important as the International Patent Classification. It was the concern of the Delegation of Algeria that this Classification should be of equal interest to all countries, and this was why, in an amendment proposal contained in document IPC/DC/26, it had asked that the texts of the Agreement might be deposited in two different places, namely with the Secretary General of the Council of Europe and the Director General of WIPO. However, it was entirely satisfied with the amendment presented by the Delegate of Brazil and for that reason supported it.

593.1 The CHAIRMAN thanked the Delegate of Algeria for his statement, which showed once again the open-mindedness of the Delegation of Algeria and its desire to bring about agreement on as broad a scale as possible.

593.2 He noted that no Delegate wished to speak on the various paragraphs of Article 16 in the form proposed by document IPC/DC/28.

594. *Article 16, thus drafted, was adopted.*

595. The CHAIRMAN observed that the Conference had completed its second reading of the Draft Agreement. The proposals of Working Group II, on the subject of Article 3, remained to be examined that afternoon.

*The meeting rose at 12.55 p.m.*

## SEVENTH MEETING

Thursday, March 18, 1971, 3.10 p.m.

DRAFT AGREEMENT. EXAMINATION OF  
QUESTIONS SET ASIDE (*continued*) (documents:  
IPC/DC/25; IPC/DC/31; IPC/DC/32)

#### *Article 3 (Languages of the Classification)*

596. The CHAIRMAN announced that Working Group II proposed amendment of paragraph (2) of Article 3 in the manner set out in paragraph 4 of document IPC/DC/31.

597. *The proposal was adopted and referred to the Drafting Committee.*

*Article 4 (Legal Scope and Use of the Classification)*

598. The CHAIRMAN asked the Delegate of Togo whether he stood by his proposal, even though his Delegation had taken part in the drafting of the proposal contained in document IPC/DC/32, which pursued a slightly different object but in the same spirit.

599. Mr. BONETE (Togo) replied that he withdrew the amendment proposal which he had submitted the previous day.

600. The CHAIRMAN thanked the Delegate of Togo for his contribution to the speeding up of the work of the Conference. He said that discussion of document IPC/DC/32 would begin as soon as it had been distributed.

*Article 7 (Assembly of the Special Union)*

601. The CHAIRMAN recalled that the Delegations of Argentina and Brazil proposed amendment of paragraph (2)(a)(vi) of this Article in the manner indicated in document IPC/DC/25.

602. *The proposal of the Delegations of Argentina and Brazil was adopted.*

*Article 5 (Committee of Experts)*

603. The CHAIRMAN introduced document IPC/DC/32, in which the Delegates of Argentina and Togo proposed the addition, after paragraph (4)(c) of Article 5, of a subparagraph (d) worded as follows: "take all other measures which, without entailing financial implications for the budget of the Special Union or for WIPO, contribute towards facilitating the application of the International Classification by developing countries."

604. Mr. BOWEN (United Kingdom) considered the amendment proposal presented in document IPC/DC/32 acceptable in principle, provided that it was redrafted to bring the provision more into line with what had already been agreed with respect to Article 3(2).

605. Mr. TAKANO (Japan) said that the Delegation of Japan had no objection to the amendment, but asked for clarification of the word "other" used at the beginning of the amendment proposal appearing in document IPC/DC/32, namely in the phrase "shall take all other measures."

606. The CHAIRMAN replied that paragraph (4) of Article 5 already contained a number of provisions designed to facilitate the application of the International Classification (for instance subparagraphs (b) and (c)). It was for that reason that the words "all other" were used in subparagraph (d).

607. Mr. TAKANO (Japan) said that the measures referred to in subparagraphs (a), (b) and (c) did not apply to developing countries, and that he had reservations about the use of the word "other."

608. The CHAIRMAN replied that while the measures referred to in subparagraphs (b) and (c) were not specific to developing countries, they were nevertheless applicable to them.

609. Mr. PFANNER (Secretary of the Main Committee) said that subparagraph (c) had been amended by the addition of the words "taking the needs of developing countries particularly into account," thereby providing justification for the use of the word "other" in subparagraph (d).

610. The CHAIRMAN noted that the Delegation of Japan declared itself satisfied with Mr. Pfanner's explanation.

611. *The amendment appearing in document IPC/DC/32 was adopted and referred to the Drafting Committee.*

*DRAFT RECOMMENDATIONS (document IPC/DC/7)*

612. The CHAIRMAN noted that the Main Committee had completed its examination of the text of the Agreement itself. The proposals for recommendations had yet to be examined, the first of these being the two draft recommendations appearing in document IPC/DC/7.

613. The RAPPORTEUR GENERAL said that the signature of the Strasbourg Agreement would mark the beginning of a new phase in the administration of the International Classification. For about two years this administration had been provided jointly by the Secretariat General of the Council of Europe and by WIPO. Moreover, even though only the European Convention was in force, adaptation and revision work was carried out not by the members of the Council of Europe alone, but by a Joint Committee made up of an equal number of countries members of the Council of Europe and countries not members of the Council. During an interim period, which would last until the entry into force of the new Agreement, it was desirable to have this cooperation continue, yet the present system should nevertheless provide for gradual transfer to WIPO of the competence and tasks of the Secretariat General of the Council of Europe. This was the purpose of the draft Recommendation Concerning the IPC Administration.

614. *The Main Committee adopted the draft Recommendation Concerning the IPC Administration.*

615. The RAPPORTEUR GENERAL said that the second draft Recommendation related to the financing of the administration of the International Classification. The costs occasioned by the application of the Agreement would be covered by a special budget. However, until the Agreement entered into force, it was not possible to ask Paris Union countries to bear the costs arising from the administration of the International Classification. The costs would have to be covered by the countries interested in the Classification. Since there was no provision under which they might be asked to make mandatory contributions, the Recommendation would allow recourse to special contributions in the same way as for the PCT and ICIREPAT. The Director General of WIPO would have the task of preparing proposals to this end, with the aid of a Working Group, and of submitting them to the Executive Committee of the Paris Union in the course of its 1971 session. The Advisory Working Group had already been set up and would meet on the morning of the following day, March 19.

616. *The Main Committee adopted the draft Recommendation Concerning the Financing of the IPC Administration.*

617. Mr. MARINETE (Romania) observed that countries which wished to undertake full classification of their patents would have to bear considerable costs. In view of the fact that such reclassification work was of obvious value, it was desirable that the Conference should recommend the exchange of lists to all countries, which would facilitate reclassification.

618. The CHAIRMAN drew attention to the interest of this proposal, and hoped that it would be formulated in writing.

619. Mr. RODRIGUEZ PADILLA (Cuba) also stressed the importance of the proposal, which would make it possible to avoid duplication of effort and would be useful to developing countries.

620. Mr. HAERTEL (Germany (Federal Republic)) said that the procedure in operation at the German Patent Office was similar to that proposed by the Delegation of Romania. The Delegation of the Federal Republic of

Germany would have no objection, therefore, to the exchange on request of existing lists of the kind mentioned.

621. The CHAIRMAN thanked the Delegate of the Federal Republic of Germany, as his country's contribution would naturally be very valuable.

622. Mr. KOELEWIJN (Netherlands) said that the Netherlands Patent Office, like the German Patent Office, had reclassified a certain number of patent specifications. He pointed out that a considerable amount of work was involved in the reclassification of old specifications. If the Netherlands Patent Office were asked, it would provide such lists in so far as it had them, but there was a considerable backlog.

623. The CHAIRMAN pointed out that in any event it would only be a recommendation. There was no question of subjecting national Offices to obligations which they were unable to assume. The Secretariat was, of course, at the disposal of the Delegation of Romania for the drafting of a text which the Main Committee could consider on the Monday morning.

624. Mr. MARINETE (Romania) said that he would prepare a draft recommendation with other Delegations interested in the problem.

625. The CHAIRMAN noted that the Main Committee had covered all the items on the agenda. It would meet again on the Monday morning, March 22, to examine and approve the report of the Drafting Committee.

*The meeting rose at 4.05 p.m.*

## EIGHTH MEETING

Monday, March 22, 1971, 10.05 a.m.

### ORGANIZATION OF THE WORK OF THE CONFERENCE

626.1 The CHAIRMAN conveyed his thanks to the Secretary General of the Conference, the Rapporteur General and all those who had given up their Sunday, as well as some of the night, to the preparation of four documents, excellent both in content and presentation: the Draft Agreement (document IPC/DC/33), the Draft Final Act (document IPC/DC/34), the Draft Recommendation prepared by the Delegation of Romania (document IPC/DC/35) and the Draft Report presented by the Rapporteur General (document IPC/DC/36).

626.2 After having indicated that any observations on the draft summary minutes of the meetings, which had also been distributed, should be made in writing and handed to the Secretariat of the Conference, the Chairman opened discussions on document IPC/DC/33.

### DRAFT AGREEMENT (*continued*) (document IPC/DC/33)

627. *The Preamble and Articles 1 to 3 did not give rise to any observations, and were successively adopted.*

### *Articles 4 to 6*

628. Mr. GAJAC (France) asked for the word "donnée" in the last phrase of paragraph (3) of Article 4 to be put in the masculine plural, since it referred to the complete

symbols of the Classification, and not to the Classification itself.<sup>1</sup>

629. Mr. LAURELLI (Argentina) expressed reservations regarding the first paragraph of Article 4, pending approval of document IPC/DC/36.

630. *The proposal by the Delegation of France did not give rise to any objections, and was adopted.*

631. *Subject to the amendment by the Delegation of France and the reservations expressed by the Delegation of Argentina, Article 4 was adopted, as was Article 5.*

632. Mr. MARINETE (Romania) proposed, if it was not too late for so doing, that amendments made to the Classification should enter into force not six months but a year after the date on which notifications were sent, as this would be to the advantage of smaller countries.

633. The CHAIRMAN considered that the proposal was one which altered the substance of the Article and therefore came under Rule 34 of the Rules of Procedure: it might only be adopted by a majority of two-thirds of the Delegations present and voting, after having been seconded by a representative of one Member Delegation and opposed by representatives of two other Delegations.

634. Mr. MARINETE (Romania) thought that it was no more than a detail amendment, on which agreement could be easily reached. If it was really necessary to apply Rule 34, he would like to hear the opinion of the Delegations of other small countries before deciding whether or not he would press his request.

635. The CHAIRMAN considered that the initiation of a parallel debate on whether or not Rule 34 should be applied was not a good way of proceeding. He thought that a fifteen-minute suspension of the meeting would enable the Delegation of Romania to consult representatives of interested countries.

*The meeting was suspended at 10.25 a.m. and resumed at 10.40 a.m.*

636. Mr. MARINETE (Romania) had found in the course of the break that the Delegates of almost all the smaller countries supported his proposal; however, other Delegations seemed reluctant to accept it. Under those circumstances, and in view of the somewhat belated submission of his request, he would confine himself to asking for a mention in the Report of the Conference that countries with limited means of carrying out amendments to the Classification considered the six-month period provided for in Article 6 too short.

637. The CHAIRMAN thanked the Delegate of Romania for the understanding he had shown. His remark would be included in the summary minutes. Moreover, it would be possible in practice to take the difficulties encountered by certain countries into consideration. It should not be overlooked, however, that a great many of the amendments which they would be asked to make would tend to simplify and improve the Classification. It would therefore be highly desirable to apply them as promptly as possible.

638. Mr. LAURELLI (Argentina) considered that the remark of the Delegate of Romania should appear not only in the summary minutes but also in the Report of the Conference.

639. The CHAIRMAN indicated that it would indeed be so.

<sup>1</sup> *Editor's Note*: The amendment proposed by the Delegation of France concerns only the French text of Article 4(3).

640.1 Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) asked, in the interests of clarification, why the words "inter alia" in the proposed amendment to Article 5(3) (document IPC/DC/29) had been omitted in the full revised text of the Draft Agreement as appearing in document IPC/DC/33. He thought that those words had been used because it was intended that the Committee of Experts should be able to invite not only the intergovernmental organizations referred to in Article 5(2)(a) but also others.

640.2 He asked also why the revised Draft Agreement did not contain the suggestion of Working Group I (appearing in paragraph 5 of document IPC/DC/29), namely that the provision in Article 5(3) as revised should not prevent the Committee of Experts from defining, in its Rules of Procedure, the extent to which intergovernmental organizations other than those referred to in Article 5(3) and international non-governmental organizations might participate in meetings.

641. Mr. BODENHAUSEN (Director General of WIPO) replied that the words "inter alia" had not been included in the revised text of the Draft Agreement because the phrase was superfluous. Paragraph 4 of document IPC/DC/29, presented by Working Group I, contained the phrase "should contain a statement..." when in fact the Rules of Procedure might contain much more. Furthermore, the words "inter alia" were somewhat odd in the Agreement, since the intention as drafted was clear. The provision referred to certain intergovernmental organizations, but the Rules of Procedure would be free to deal with other organizations. Mr. Bodenhausen thought that discussion of this matter could be postponed until the Main Committee considered the General Report.

642. The CHAIRMAN concluded that the question would be examined at the same time as the corresponding paragraph of the General Report.

643. Mr. BOWEN (United Kingdom), commenting on the title of Article 6—namely "Notification, Entry into Force, and Publication, of Amendments, and Other Decisions"<sup>1</sup>—said that the last three commas were superfluous and should be deleted. The first comma was necessary, but the rest should be deleted if the title were to be grammatically correct.

644. Mr. WAHL (United States of America) supported the proposal that the superfluous commas be deleted.

645. The CHAIRMAN said that it was possible to do justice to the comment by the Delegate of the United Kingdom.

646. *Article 6 was adopted.*

*Articles 7 to 14*

647. *Articles 7 to 14 were adopted.*

*Articles 15 to 17*

648. Mr. LAURELLI (Argentina) proposed that the beginning of paragraph (1) of Article 15 should be drafted as follows: "Any member country may denounce..." [remainder unchanged].

649. The RAPPOREUR GENERAL would prefer: "Any country of the Special Union."

650. The CHAIRMAN shared this view.

651. *Article 15, thus amended, was adopted, as were Articles 16 and 17.*

DRAFT REPORT PRESENTED BY THE  
RAPPOREUR GENERAL (document IPC/DC/36)

*Parts I (Introduction) and II (Preparation of the Work of the Strasbourg Diplomatic Conference)*

652. *Parts I and II of the General Report were successively adopted.*

*Part III (Organization of the Strasbourg Diplomatic Conference)*

653. Mr. WINTER (United States of America) wondered whether it was necessary to include the phrase "on June 25, 1970," which appeared in paragraph 13 of the Draft General Report (document IPC/DC/36).

654. The RAPPOREUR GENERAL considered it preferable to delete the date, since it was by no means essential.

655. The CHAIRMAN agreed.

656. *Part III of the General Report, thus amended, was adopted.*

*Part IV (General Remarks on the Agreement)*

657. Mr. MARINETE (Romania) pointed out that the General Report made no mention of the letters of protest which had been sent by the Delegations of Bulgaria, Poland and the Soviet Union, and which the Director General of WIPO had read out to the Conference.

658. Mr. BENDIFALLAH (Algeria) also pointed out that the Report made no mention of the intervention of the Delegate of Algeria in protest against the fact that the German Democratic Republic had not been invited to the Conference. He stated that this intervention was in line with the position adopted by the Delegation of Algeria at the outset of the work of the Conference.

659. Mr. BODENHAUSEN (Director General of WIPO) replied to the Delegates of Algeria and Romania that all interventions concerning the German Democratic Republic had been included in the summary minutes of the first meeting of the Plenary on March 15, 1971 (paragraphs 19 to 23). With regard to the General Report, he pointed out that it was customary to include in it legal questions, in other words comments on the Agreement, but not political questions, these being mentioned only in the summary minutes. As far as he was concerned, therefore, he did not wish to have his intervention appear in the Report. As for the other interventions, it was for the Conference to decide. He further pointed out that a fourth country, Czechoslovakia, had made a similar protest, and that this protest would be added to the summary minutes of the first meeting of the Plenary of the Conference.

660. The CHAIRMAN said that he agreed with the Director General of WIPO.

661. Mr. WINTER (United States of America) said that the full debate on this topic was recorded in the summary minutes. He agreed with the sentiments expressed by the Director General of WIPO.

662. Mr. BENDIFALLAH (Algeria) stressed the fact that the intervention of Algeria did not arise from any desire for polemics, but rather from the same desire for universality as had been mentioned by the Chairman of the Con-

<sup>1</sup> *Editor's Note*: This comment concerns only the English version of the title of Article 6 of the draft Agreement (document IPC/DC/33).

ference and the Director General of WIPO. Considering the fact that the Report was the instrument whereby the Agreement was interpreted, and the summary minutes merely an indicative instrument, he thought that if the Report did not mention these interventions, the problem of the non-indication of certain countries was one that would probably come up again in the future. In accepting the reply given by the Director General of WIPO, he asked that the summary minutes of that meeting record his intervention accurately.

663. Mr. MARINETE (Romania) said that he agreed entirely with the Delegate of Algeria, as indeed he did with the reply of the Director General of WIPO. He noted, however, that Part V of the General Report made no mention of the universality concept, although he considered that its proper place was there.

664. Mr. RODRIGUEZ PADILLA (Cuba) fully shared the views of the Delegates of Algeria and Romania. He attached particular importance to the universality principle.

665. The CHAIRMAN observed that, as a result of the second interventions of the Delegates of Algeria and Romania, the first matter at issue seemed to be settled: the summary minutes would mention the opinions expressed by the various Delegations.

666. *It was so decided.*

#### *Part V (General Discussion)*

667. The CHAIRMAN embarked on the second question: could the universality concept be taken up in Part V of the General Report?

668. The RAPPORTEUR GENERAL, after having pointed out that paragraph 26 of the General Report referred to "all countries of the Paris Union," said that if the Assembly considered it necessary, there could be no objection at all to adding, after the words "They all pointed out the advantages of adopting," the words "in a spirit of universality."

669. The CHAIRMAN felt that it was true that, even though the Agreement could concern only Paris Union countries, the problem in question was universal in character. He noted that no Delegation objected to the proposal of the Rapporteur General.

670. *Subject to the observations presented and the amendment proposed by the Rapporteur General, Part V of the General Report was adopted.*

#### *Part VI (Discussion of Detail)*

671. The CHAIRMAN indicated that, owing to the length of Part VI, the Main Committee would consider it in portions.

#### *Preamble and Articles 1 to 3*

672. *The paragraphs of the General Report concerning the Preamble (paragraph 28), Article 1 (paragraphs 29, 30 and 31), Article 2 (paragraphs 32 and 33) and Article 3 (paragraph 34) were successively adopted.*

#### *Article 4*

673.1 Mr. NORDSTRAND (Norway) asked for an explanation of what kind of legal scope was referred to in the last sentence of paragraph 36 of the Draft Report (document IPC/DC/36): "However, the provision as amended naturally does not prevent any country of the Special Union from giving the International Classification a scope which goes

beyond the mere administrative character which it has in the terms of the Agreement itself."

673.2 He felt that the sentence was at variance with the present paragraph (1) of Article 4 and should be deleted.

674. Mr. LAURELLI (Argentina) recalled that he had made a reservation with regard to paragraph (1) of Article 4, in terms of which "the Classification shall be solely of an administrative character." His country considered it of the utmost importance, in view of all the technical and legal factors, to remain free to give the International Classification a legal scope which went beyond the mere administrative character which it has in terms of the Agreement itself. Only the previous evening Mr. Laurelli had received a communication from his Government which requested him to express the following views: Argentina would not give its approval unless the last sentence of paragraph 36 of the Draft Report was adopted.

675. The RAPPORTEUR GENERAL said that the sentence, which indeed had been added at the request of the Delegation of Argentina, reproduced the substance of a provision which was already to be found in the Nice and Locarno Agreements. The Conference had not adopted it because, as the Delegate of Norway had pointed out, it seemed difficult to accept that the nature and scope of the protection afforded to an invention should be determined by the Classification. Yet there was no reason for preventing a country from giving the International Classification legal scope while the Agreement itself was only administrative in character.

676. Mr. HENSILWOOD (Australia) said that if the Conference had decided to remove the passage in question from the Draft Agreement, he failed to understand why it should be included in the General Report.

677. Mr. PHAF (Netherlands) said that the amendment to the mere wording of Article 4 did not mean at all that the Conference wished to prevent a country from giving the Classification a scope which was more than simply administrative.

678. Mr. MARINETE (Romania) shared this view. Like the Delegation of Argentina, he hoped that the last sentence of paragraph 36 of the General Report (document IPC/DC/36) would be retained.

679. Mr. NORDSTRAND (Norway) was still of the opinion that the last sentence of paragraph 36 was contrary to the spirit of Article 4(1) of the Draft Agreement.

680. Mr. MAZARAMBROZ Y MARTÍN RABADÁN (Spain) pointed out that Article 4(1) did not prevent countries of the Special Union from giving legal scope to the International Classification within their national legislations.

681. The CHAIRMAN said that, by giving the Classification an administrative character, the Agreement did not bind the sovereignty of States, which remained entirely free to give it a more extensive scope.

682. Mr. LAURELLI (Argentina) again stressed the fact that Article 4 should in no event be regarded as restricting the sovereignty of States. It was essential, therefore, that the General Report mention that they had the possibility of giving the International Classification a legal scope broader than mere administrative scope.

683. Mr. BODENHAUSEN (Director General of WIPO) proposed that the beginning of the last sentence of paragraph 36 be worded as follows: "However, some Delegations pointed out that the provision as amended did not prevent certain countries of the Special Union..." [remainder unchanged].

684. Mr. LABRY (France) was surprised that not all the Delegations agreed on the scope to be given to Article 4.



685. Mr. PHAF (Netherlands) emphasized that the Article did not prevent a member country of the Special Union from giving the Classification other than a purely administrative scope, and that therefore the last sentence of paragraph 36 reflected the situation as it really was.

686. Mr. TROTTA (Italy) fully shared this view and said that he favored retention of the sentence.

687. The CHAIRMAN asked whether the Delegations which had objected to the sentence requested a vote on the deletion of the phrase or the new wording as proposed by the Director General of WIPO.

688. Mr. HENSHILWOOD (Australia) agreed to the compromise put forward by the Director General of WIPO and did not wish to have the matter put to a vote.

689. Mr. NORDSTRAND (Norway) also preferred the compromise solution submitted by the Director General of WIPO, and did not ask for a vote.

690. The CHAIRMAN observed that a number of Delegations had spoken in favor of the maintenance of the existing text, in particular the Delegations of Argentina, France, Italy, Romania and Spain.

691. *Paragraph 36 of the General Report was adopted without change.*

692. *The paragraphs of the General Report concerning Article 4 (paragraphs 35 to 43) were adopted.*

#### Article 5

693. Mr. STORDEL (United Nations Conference on Trade and Development (UNCTAD)) suggested the amendment of the end of the first sentence of paragraph 54 of the Draft Report (document IPC/DC/36) by the addition after the word "observers" of the words "including other than those referred to in Article 5(2)(a)."

694. The RAPPORTEUR GENERAL agreed to make this addition to his report, subject to drafting changes.

695. Mr. BOUZIDI (Algeria) supported the proposal of the UNCTAD observer.

696. Mr. CASTRO (Philippines), referring to paragraph 50 of the Draft Report (document IPC/DC/36), said that it was the understanding of the Delegation of the Philippines that invitations made on the initiative of the Director General of WIPO to the representatives of other international organizations would not involve financial expenditure on the part of the Special Union. The Delegation of the Philippines believed that understanding to be in line with the general philosophy of the Special Union to be created by the Agreement, in that the expenses for representatives at meetings of the Special Union or its committees should be borne by the countries or international organizations concerned.

697. Mr. BODENHAUSEN (Director General of WIPO) expressed his agreement with the statement by the Delegate of the Philippines.

698. *The paragraphs concerning Article 5 (paragraphs 44 to 59) were adopted, subject to the amendment proposed by the UNCTAD observer.*

#### Articles 6 to 12

699. *The paragraphs concerning Article 6 (paragraphs 60 and 61), Article 7 (paragraphs 62 to 64), Article 8 (paragraph 65), Article 9 (paragraphs 66 to 68), Article 10 (paragraph*

*69), Article 11 (paragraph 70) and Article 12 (paragraph 71) were successively adopted.*

#### Articles 13 to 17

700. Mr. MARINETE (Romania) pointed out that paragraph 72 made no mention of his statement with the request that no prior condition be imposed on the accession of countries to the Special Union.

701. The CHAIRMAN reminded him that the summary minutes recorded everything that had been said during the debate, whereas the General Report was intended only for the purposes of interpretation of the text as adopted. He did not think, therefore, that the Report should record an opinion which was not the opinion of the Conference as a whole.

702. Mr. MARINETE (Romania) considered that, since it was a question of principle, it should be mentioned in the Report, which should indicate that it did not meet with general approval and why.

703. The RAPPORTEUR GENERAL said that the intervention of the Delegate of Romania had been mentioned in the summary minutes of the fourth meeting of the Main Committee (see paragraph 426 of the summary minutes); for that reason he had not thought it necessary to repeat it in his Report, although the decision naturally lay with the Conference.

704. Mr. MARINETE (Romania) thought that the summary minutes did not give an accurate picture of his Delegation's attitude: indeed if they recorded its arguments exactly, they, like the General Report for that matter, might lead to the conclusion that the text was adopted unanimously.

705. Mr. BODENHAUSEN (Director General of WIPO) pointed out that the Delegate of Romania wished above all to have the summary minutes corrected, rather than have his intervention appear in the General Report. He therefore reminded him that the Rules of Procedure allowed him to propose a change in the summary minutes by making the corresponding request to the Secretariat of the Conference.

706. Mr. MARINETE (Romania) said that the Director General of WIPO had understood his feelings perfectly.

707. *The paragraphs concerning Article 13 (paragraphs 72 and 73) were adopted, as were the paragraphs concerning Article 14 (paragraph 74), Article 15 (paragraph 75), Article 16 (paragraphs 76 to 80) and Article 17 (paragraph 81).*

708. The CHAIRMAN proposed discussion of the Draft Recommendation submitted by the Delegation of Romania (document IPC/DC/35) before proceeding with Part VII of the Draft General Report (document IPC/DC/36).

709. *It was so decided.*

#### DRAFT RECOMMENDATION CONCERNING THE EXCHANGE OF CONCORDANCE TABLES AND LISTS OF PATENT DOCUMENTS RECLASSIFIED ACCORDING TO THE INTERNATIONAL PATENT CLASSIFICATION (document IPC/DC/35)

710. The CHAIRMAN remarked that the Draft was in three parts, the title, the Preamble and the Recommendation itself. Each should be examined separately.

711. Mr. BOWEN (United Kingdom) said that he had no recollection of having discussed the exchange of concordance tables and proposed that all references to concordance tables appearing in the Draft Recommendation should be deleted.

712. Mr. PHAF (Netherlands) supported the proposal of the United Kingdom Delegation.

713. Mr. MARINETE (Romania) explained that it was at the request of a certain number of Delegates and the Secretariat that concordance tables had been mentioned, although admittedly they had not been mentioned at the beginning. Such tables existed and could be very useful, especially to avoid differences of opinion as to what was to be placed in a given subgroup; they would also be very useful for future meetings of experts. However, if certain Delegations felt that the mention of concordance tables involved more drawbacks than advantages, he was fully prepared, as far as he was concerned, to amend his draft.

714. The CHAIRMAN said that several Delegations had asked in the course of drafting for the Recommendation to cover concordance tables, but that the United Kingdom and the Netherlands opposed this.

715.1 Mr. WAHL (United States of America) thought that concordance tables might be exchanged between countries on a bilateral basis until such tables disappeared as a result of the introduction of the International Classification.

715.2 Mr. Wahl did not wish to see the importance of concordance tables stressed since they were not precise.

716. The CHAIRMAN stated, in a personal capacity, that he shared the view of the Delegate of the United States of America. The purpose of the Agreement was to generalize the direct use of the International Classification, not to achieve international classification by indirect means only, using the expedient of concordance tables for the different national classifications. Of course Patent Offices in need of concordance tables would always be able to ask for them, yet it did not seem necessary to sanction this possibility by an instrument as formal as a diplomatic recommendation.

717. Mr. MARINETE (Romania) replied that, since it was the wish of a number of Delegations, he readily accepted that the Recommendation should not relate to concordance tables.

718. Mr. RODRIGUEZ PADILLA (Cuba) proposed that item (a) of the Recommendation itself be deleted and that the title be modified accordingly: all mention of concordance tables would thus be removed.

719. *It was so decided.*

720. The CHAIRMAN pointed out, in a personal capacity that the word "exchange" as used in the title perhaps did not reflect the exact meaning intended. It was in fact desirable that countries should be able to communicate reclassification lists to others which themselves might not be able to reciprocate. There was therefore no reason to introduce such an idea of reciprocity or exchange. It would perhaps be better to use the word "distribution."

721. Mr. MARINETE (Romania) replied that in Romanian, which was a Latin language, the word "distribution" had a much vaguer meaning than the word "exchange." It was therefore better to retain the latter, but on the understanding that the exchange would be made on the initiative of a requesting Delegation, without there being anything automatic about it.

722. Mr. BODENHAUSEN (Director General of WIPO) proposed the use of the word "communication," as "distribution" had a meaning which was too broad and did not reflect the idea of communication being only on request.

723. Mr. MARINETE (Romania) thought that the word "communication" was still too vague. He preferred "exchange," which was more precise, it being understood, he repeated, that exchange would take place only on request. He added that all the Delegations had agreed on the use of this word.

724. The CHAIRMAN said that the most important thing was the contents of the Recommendation, and that he would be ill-advised to insist on the amendment of something on which the Delegations agreed. He noted therefore that all that was required was the removal from the title of the words "of concordance tables and."

725. *The Title thus amended was adopted.*

726. *The Preamble was adopted.*

727. The CHAIRMAN observed that the Main Committee could now proceed with the examination of the Recommendation itself.

728. Mr. BOWEN (United Kingdom), reverting to the Preamble which had just been adopted, thought that the part of the text of the Draft Recommendation (document IPC/DC/35) which related to the exchange of concordance tables and lists, namely: "Having regard to the importance of uniform reclassification of patent documents," emphasized a point which seemed inconsistent with the real purpose of the Recommendation. The Diplomatic Conference could be aware of the importance of uniformity in any reclassification without there being any obligation in the Draft Agreement for any country to reclassify patent documents in accordance with changes made in the International Classification. The United Kingdom Delegation considered that the provision could be interpreted in a contrary sense and that, if reclassification was undertaken, it should be done in a uniform manner. The United Kingdom Delegate proposed the following new wording: "Having regard to the importance of uniformity in any reclassification of patent documents which may be made according to the said Classification..."<sup>1</sup>

729. The CHAIRMAN felt that the proposal of the United Kingdom Delegate could be accepted by the Rapporteur General and the Main Committee.

730. Mr. PHAF (Netherlands) asked for a French text.

731. The RAPPORTEUR GENERAL proposed the following text: "Consciente de l'importance que revêt l'uniformité de toute reclassification des documents de brevets qui pourrait être effectuée selon ladite classification."

732. *The amendment proposal and the Preamble, thus amended, were adopted.*

733. The CHAIRMAN said that it would now be possible to proceed with the body of the Recommendation. He recalled that item (a) had been deleted.

734. Mr. PHAF (Netherlands) said that the Netherlands Delegation wished to see something in the Recommendation which made it clear that the exchange obligation applied only to national and not to foreign patent documents. It did not wish to see the obligation enlarged.

735. The CHAIRMAN pointed out that a Recommendation could never create an obligation.

736. Mr. WAHL (United States of America) suggested that the common objective would be reached if item (b)

<sup>1</sup> *Editor's Note*: The French version appears below, in paragraph 731 of the summary minutes.

of the Recommendation were to begin thus: "Lists of numbers of their national patent documents..."

737. The CHAIRMAN feared that excessive preciseness might make application of the Recommendation difficult.

738. Mr. PFANNER (Secretary of the Main Committee) said that it would be useful, if the Delegation of Romania agreed, to make the Recommendation somewhat more general in such a way that it covered different Patent Office situations. In some Offices the only lists which could be exchanged related to patents issued by the Office concerned; in other Offices lists were drawn up for the whole contents of the search files, in other words for both domestic and foreign patent documents. It might be difficult from an administrative point of view for the latter Offices to single out their domestic patent documents. A more general formula, without obligation, would be more useful since it would not overburden Offices.

739. Mr. HENSHILWOOD (Australia) suggested that, if the word "reclassification" was regarded as too restrictive, it could be replaced by the broader term "classification," which would take into account not only reclassified documents but also those which were being classified for the first time.

740. Mr. PHAF (Netherlands) said that the Recommendation should cover all matters which would be useful to Patent Offices. However, not everything need be included, since it would be for the Office to decide what information it required. It was advisable to avoid increasing further the already enormous quantity of documents received by Patent Offices.

741. Mr. BOWEN (United Kingdom) endorsed the opinions of the Delegations of the Netherlands and the United States of America with respect to the amendment of the third Recommendation.

742. Mr. LIPS (Switzerland) considered that it would be useful to receive from other Patent Offices lists of reclassified search files which contained not only domestic but also foreign patent documents.

743. Mr. JANKOVIĆ (Yugoslavia) recalled that the establishment of lists of patent documents was not compulsory. Moreover there were none in his country.

744. The CHAIRMAN replied that no country would be compelled to draw up lists of patent documents. The sole purpose of the Recommendation was to arrange for such lists, if they existed, to be made available to countries wishing to receive them.

745. Mr. MAST (Germany (Federal Republic)) suggested inserting the word "existing" before the word "lists." He was worried by the limitation to national documents, since the exchange might become restricted to national patents alone. If exchange were to be limited and defined, it should be made clear that only lists which already existed in an Office could be exchanged.

746. Mr. PFANNER (Secretary of the Main Committee) thought that it might well be useful to have lists from other countries including not only their domestic patents but also patents from other countries, in so far as such lists existed. A considerable number of countries had not yet reclassified their patent documents according to the International Classification. There was no reason why an Office having reclassified its entire documentation—including foreign patents—according to the International Patent Classification should not place those lists, including foreign patents, at the disposal of other countries. The latter countries would thus have a classification which they could not obtain otherwise, since the originating Office did not carry out reclassification.

747. Mr. RODRIGUEZ PADILLA (Cuba) was of the same opinion as Mr. Pfanner. The Recommendation would be applied according to the capabilities and wishes of each country. Its scope should be kept general, however, in such a way as to make it quite clear that its purpose was to enlarge and not to restrict the possibilities available to developing countries.

748. Mr. BODENHAUSEN (Director General of WIPO) suggested the following wording: "existing lists of patent documents, either national or also foreign, established by the said Offices." If this wording were adopted in item (b) of document IPC/DC/35, the choice would be left to the Offices according to their circumstances.

749. Mr. BOWEN (United Kingdom) proposed the adoption of the following wording for item (b): "such lists of patent documents as may be established by the national Offices"—in order to leave the provision flexible.

750. The CHAIRMAN said that the question was one of drafting, which could be looked into by the Rapporteur General and the author of the proposed Recommendation.

751. Mr. PHAF (Netherlands) said that the Netherlands Delegation preferred the wording suggested by the Director General, which indicated clearly the possibility of sending only lists of national patent documents.

752. Mr. BODENHAUSEN (Director General of WIPO) confirmed that the English text proposed by him would read: "existing lists of patent documents, either national or also foreign, established by the said Offices."

753. The RAPPORTEUR GENERAL proposed the following French text: "les listes de documents de brevets existantes, qu'elles portent sur les documents nationaux ou étrangers, établies par lesdits offices et résultant..." [remainder unchanged].

754. Mr. MARINETE (Romania) accepted this text.

755. *Subject to the amendment proposed by the Rapporteur General, the Recommendation contained in document IPC/DC/35 was adopted.*

#### DRAFT REPORT PRESENTED BY THE RAPPORTEUR GENERAL (continued) (document IPC/DC/36)

756. The CHAIRMAN said that the Main Committee might now proceed with the examination of the Draft General Report.

#### Part VIII (Recommendations)

757. Mr. BOWEN (United Kingdom) said that paragraph 85 of the Draft General Report would have to be amended by deletion of the references to concordance tables.

758. Mr. BODENHAUSEN (Director General of WIPO) said that this went without saying.

759. *Part VII was adopted.*

#### Part VIII (Conclusion)

760. *Part VIII was adopted.*

#### DRAFT FINAL ACT CONCERNING THE INTERNATIONAL PATENT CLASSIFICATION (document IPC/DC/34)

761. *The Draft Final Act was adopted.*

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**ORGANIZATION OF THE WORK  
OF THE CONFERENCE**

762. The CHAIRMAN proposed that the Plenary meet that afternoon at 5 p.m.

763. *It was so decided.*

764. After a discussion between the Delegates of BRAZIL, the UNITED KINGDOM, the UNITED STATES OF AMERICA, SWEDEN, the NETHERLANDS, SWITZERLAND, ITALY, AR-

GENTINA, the PHILIPPINES and ROMANIA, it was proposed that the following should be convened : the IPC Financing Working Group at 9 a.m. on Tuesday, March 23 ; the Credentials Committee at 9 a.m. on Wednesday, March 24 ; and the Plenary of the Conference at 10 a.m. on Wednesday, March 24, for the signature by the Delegations of the Final Act and the Agreement.

765. *It was so decided.*

*The meeting rose at 1.25 p.m.*



# **GENERAL REPORT**



## General report

presented by J. VOYAME (OMPI), Rapporteur General  
(March 22, 1971, Original: French; document IPC/DC/45)

### I. Introduction

1. Over 400,000 patents for invention and other equivalent documents are granted and published annually by the different Patent Offices all over the world. Moreover, there are many Offices which also provide for publication at the stage of application for the patent. It is essential that this vast quantity of documentation be classified, for in order that the novelty of each invention may be judged, previous publications on the same subject must be readily accessible. Furthermore, collections of documents describing inventions are an invaluable source of technical information for industry and Administration alike.

2. Several countries have introduced their own classifications. Dispersal of this kind has a number of drawbacks, however. In particular, it obliges each Office to reclassify, according to its own system, documents classified by other Offices in different languages. This is a colossal task, and one which is fraught in particular with insuperable linguistic problems.

3. A much more rational solution would be to introduce a universal classification on the basis of which Offices would classify their own documents before exchanging them with other Offices. Such international cooperation would bring about a considerable saving in work and would, to a large extent, simplify the establishment in each country of a fully-classified collection of documents, regardless of the languages in which those documents were published. This would be particularly useful for developing countries, which generally find it very difficult to build up, on their own, a readily-accessible system of technical documentation.

4. The first significant steps in this direction were taken by the member countries of the Council of Europe, within the framework of which the European Convention on the International Classification of Patents for Invention (hereinafter referred to as the "European Convention") was signed in 1954.

5. On the basis of this Convention a complete system of classification was elaborated, comprising 8 sections, 115 classes, 607 subclasses and over 46,000 groups and subgroups. This Classification (hereinafter referred to as the "International



Classification") was adopted in November 1967 by the competent body, the Committee of Experts on Patents of the Council of Europe. It was officially published and entered into force on September 1, 1968.

6. The International Classification has been adopted not only by the majority of the members of the Council of Europe, but also by a number of other countries. It is currently applied, fully or in part, by at least 38 national Offices and by the African and Malagasy Industrial Property Office, which includes thirteen countries.

## II. Preparation of the Work of the Strasbourg Diplomatic Conference

7. The wide application of the International Classification was sufficient evidence of its universal value, and of the fact that, in the general interest, it should be applied by an ever-greater number of countries throughout the world. To do this it was necessary to give all countries which adopted the International Classification the right to participate, on an equal footing, in decisions relating to it, and particularly in those concerning amendments. This is not possible under the European Convention which, although open to all countries of the Paris Union for the Protection of Industrial Property, gives the power of decision in matters affecting the International Classification to the member countries of the Council of Europe alone.

8. It is for that reason that the Committee of Experts on Patents of the Council of Europe expressed the view, at its session in November 1967, that it was necessary to give the International Classification a more universal character in order to facilitate its adoption on a world-wide basis, that all contracting countries should have equal rights and that the Secretariat General of the Council of Europe should collaborate with the World Intellectual Property Organization (WIPO)<sup>1</sup> in studying the measures which would allow these objectives to be attained. The Conference of Representatives of the Paris Union took a similar decision in December 1967.

9. These negotiations led to conclusions which were approved by the competent bodies of the Council of Europe and WIPO. According to these conclusions, the European Convention should be revised by a Diplomatic Conference to be convened jointly in Strasbourg by the Council of Europe and WIPO. In addition, in accordance with the same conclusions, a Joint

<sup>1</sup> In the interests of simplicity, this report speaks of the World Intellectual Property Organization (WIPO) even when referring to a period in which only the United International Bureaux for the Protection of Intellectual Property (BIRPI) existed.

ad hoc Committee of the Council of Europe and WIPO on the International Classification of Patents (hereinafter referred to as the "Joint ad hoc Committee") was set up, composed of five member countries and five non-member countries of the Council of Europe, which was entrusted, in particular, with the task of preparing the revision of the International Classification.

10. After having elaborated guiding principles for the purposes of the preparation of a new instrument, which were submitted to the Executive Committee of the Paris Union and to the Committee of Experts on Patents and then to the Committee of Ministers of the Council of Europe, the two Organizations established a first Draft Agreement, which was approved, subject to some observations, by the Joint ad hoc Committee.

11. In the light of these observations, the Secretariat General of the Council of Europe and the International Bureau of WIPO amended the first draft and established the Draft Agreement which is included in document IPC/DC/2, together with a commentary.

12. The Draft was subsequently amended to bring it into line with the corresponding provisions of the Patent Cooperation Treaty, adopted at Washington on June 19, 1970. These amendments are contained in document IPC/DC/6 (the word "Draft" hereinafter denotes the text of the Draft Agreement as amended by document IPC/DC/6).

### III. Organization of the Strasbourg Diplomatic Conference

13. The Diplomatic Conference, which was convened by the Secretary General of the Council of Europe and the Director General of WIPO, was held in the Maison de l'Europe in Strasbourg from March 15 to 24, 1971.

14. Thirty-eight countries members of the Paris Union were represented at the Conference. In addition, two countries non members of the Paris Union sent observers, as did four intergovernmental organizations and seven international non-governmental organizations.

15. After having been opened by the Secretary General of the Council of Europe, the Conference elected Mr. F. Savignon (France) as its Chairman, and, as its Vice-Chairmen, Mr. P. Cabral de Mello (Brazil), Mr. Y. Abe (Japan), Mr. L. Marinete (Romania), Mr. E. Bonete (Togo), Mr. E. Armitage (United Kingdom) and Mr. P. Trezise (United States). It also appointed Mr. J. Voyame (WIPO) Rapporteur General, and Mr. R. Muller (Secretariat General of the Council of Europe) Secretary General.

16. The Conference met in Main Committee on March 15, 16, 17, 18 and 22, 1971, under the chairmanship of Mr. F. Savignon.

17. The Conference also set up a Credentials Committee composed of representatives of the following countries: Argentina, Australia, Austria, Denmark, Finland, Iran, Italy, Nigeria, Philippines, Spain, Tunisia, Yugoslavia. This Committee met on March 16 and 22, 1971, under the chairmanship of Mr. M. Naraghi (Iran).

18. The Conference furthermore set up a Drafting Committee composed of representatives of the following countries: Algeria, Belgium, Canada, France, Germany (Federal Republic), Japan, Netherlands, Sweden, Switzerland, United Kingdom, United States of America. This Committee met on March 19, 1971, under the chairmanship of Mr. R. von Keller (Germany (Federal Republic)).

19. Finally, the Conference formed two Working Groups. Working Group I, composed of representatives of Argentina, Brazil, France, Germany (Federal Republic), Japan, the Netherlands, Switzerland and the United Kingdom, was given the task of examining the question of the status of observers. It met on March 17, 1971, under the chairmanship of Mr. E. Armitage (United Kingdom) and submitted a report to the Main Committee. Working Group II, composed of representatives of Algeria, Argentina, Brazil, Germany (Federal Republic), Japan, the Netherlands, Spain, the United Kingdom and the United States, was entrusted with studying the question of the translation and publication of the International Classification in languages other than English and French. It met on March 17, 1971, under the chairmanship of Mr. L. Laurelli (Argentina), and also submitted a report to the Main Committee.

#### IV. General Remarks on the Agreement

20. The new Agreement is inspired by the European Convention, the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, and the Locarno Agreement Establishing an International Classification for Industrial Designs.

21. After a preamble stressing the importance of the adoption, on a world-wide basis, of a uniform system for the classification of patents, and paying tribute to the prominent part played by the Council of Europe in the elaboration of the International Classification, the Agreement establishes a Special Union within the framework of the Paris Union for the Protection of Industrial Property. The members of that

Special Union adopt a common classification for patents and similar documents (Article 1). That classification is the one currently in force under the European Convention, subject to such amendments as may be made to it (Article 2).

22. The Agreement imposes on members of the Special Union the obligation to apply the International Classification, in particular by including the symbols of that Classification in patents and similar documents issued by their Administrations (Article 4).

23. The Agreement establishes a Committee of Experts which is competent to develop the International Classification, in particular by adopting amendments dictated by the progress of technology, to facilitate its use and promote its uniform application, in order to encourage international cooperation in the reclassification of documentation used in the examination of inventions, and to take appropriate measures to assist developing countries in the application of the International Classification (Articles 5 and 6).

24. Finally, the Agreement contains administrative provisions and final clauses similar to those contained in the other Conventions and Agreements administered by WIPO (Articles 7 to 16). The provisions governing the entry into force (Article 13) and the transitional provisions (Article 17) are conceived in such a way as to ensure a smooth changeover from the system of the European Convention to that of the new Agreement.

## V. General Discussion

25. The Conference devoted the general discussion first to the new Agreement considered as a whole.

26. The Delegations of Australia, Austria, Brazil, Denmark (speaking on behalf of the Scandinavian countries), France, Germany (Federal Republic), Iran, Ireland, Japan, the Netherlands, Romania, Spain, Switzerland, the United Kingdom and the United States stressed the great importance of the International Classification, which is an essential prerequisite of any increase in international cooperation in the field of patents. They also pointed out the advantages of adopting, in a spirit of universality, a new Agreement which would enable all countries of the Paris Union to apply the International Classification on an equal basis. A large number of delegations paid an emphatic tribute to the member countries of the Council of Europe and to the Secretariat General of that Organization for having taken the initiative of introducing the International Classification and then having accepted to transfer their work to all the countries of the Paris Union.

27. The representatives of the United Nations Conference on Trade and Development (UNCTAD), the International Patent Institute (IIB) and the African and Malagasy Industrial Property Office (OAMPI) endorsed these declarations, as did the representatives of the International Chamber of Commerce (ICC), the International Federation of Patent Agents (FICPI), the Pacific Industrial Property Association (PIPA) and the Union of Industries of the European Community (UNICE).

## VI. Discussion of Detail

### *Preamble*

28. The Preamble contained in the Draft was amended in one respect only. On a proposal by the Delegations of Argentina and Brazil, it was amplified in order to stress the importance of the International Classification for developing countries, in that it gives them easier access to modern technology, which is constantly growing in volume.

### *Article 1*

29. This provision establishes, within the framework of the Paris Union, a Special Union whose member countries adopt a uniform classification for patents for invention, inventors' certificates, utility models, utility certificates, and similar documents.

30. On proposals by the Delegations of the United Kingdom and Norway, the Conference decided that it was preferable to speak of a "*common* classification" rather than a "*single* classification." This made it clearer, especially in the English text, that the countries of the Union were not obliged to apply only the International Classification, but that they might also use it in conjunction with one or several other classification systems.

31. A long discussion ensued on the name of the International Classification, since some delegations considered it preferable to speak of an "International Classification of Inventions." The Conference preferred, however, to retain the expression "International Classification of Patents," which is customary. It considered that, strictly speaking, this expression was indeed too narrow, since it was intended that the International Classification should apply also to inventors' certificates, utility models, utility certificates and similar documents; however, it was always difficult to find a title defining exactly the subject-matter covered; by the same token, the "Patent Cooperation Treaty" (PCT), which was adopted recently, nevertheless applies also to other titles of

protection (see Article 2(ii) of that Treaty); moreover, the scope of the Agreement was indicated with sufficient preciseness in Article 1, which lists the documents to be classified other than patents in the strict sense of the word; in any event, even the expression "International Classification of Inventions" would not be adequate: it would be too broad for some, who attributed to the term "invention" a meaning which went beyond the field of technology, and too narrow for others, who considered that the classification should include all the technical subject-matter disclosed by the title of protection; finally, the question of the name was all the less important since, in practice, an abbreviation would be used.

### *Article 2*

32. This provision defines the International Classification which is the subject of the Agreement.

33. With regard to Article 2(1)(a)(ii) and (iii) and 2(2)(b) and (c), the Conference considered, following a proposal by the Delegation of the United States of America, that the words "amendments" and "additions" should not be used together, since the latter term was already included in the former. It therefore deleted the words "and additions" from those provisions. It was understood that the remaining word "amendments" should be understood in its broadest sense, which covered all changes which might be made to the International Classification, and in particular additions, deletions, transfers from one subdivision to another and changes in designation.

### *Article 3*

34. In the Draft, this Article, which concerns the languages of the Classification, provided that the Classification was established in the English and French languages and that the International Bureau of WIPO would, after consultation with the interested Governments, establish official texts in other languages designated by the Assembly of the Special Union. The Delegations of Argentina and Brazil proposed to provide, in the Agreement itself, that such texts should be established, in particular, in German, Japanese, Portuguese, Russian and Spanish. After the question had been submitted to Working Group II, and on a proposal by that body, the Conference accepted the insertion, in Article 3 of the Agreement, of the list of languages in question, at the same time leaving the Assembly to decide on translation into other, additional languages. It was nevertheless aware, however, that the translation of the International Classification entailed an immense

amount of work and called for the cooperation, for all branches of technology, of specialists who, in addition, had to know several languages. It is evident that such an operation cannot be undertaken by the staff of the International Bureau of WIPO. Furthermore, the employment of ad hoc staff would be extremely expensive and also very difficult. A task of this kind is easier for the interested Patent Offices, many of which have the necessary specialists at their disposal. The Conference decided, therefore, on a proposal by Working Group II, that such translations would be established, in consultation with interested Governments, either on the basis of texts proposed by those Governments, or by any other means which would not have financial implications for the Special Union or WIPO. It is understood that this provision is applicable even when there is only one interested Government. Furthermore, in so far as translations are made for the benefit of developing countries, the International Bureau could, for instance, seek to enter into agreements with international financing organizations and intergovernmental organizations, as is provided, in another context, in Article 51(4) of the Patent Cooperation Treaty.

#### *Article 4*

35. This is a very important Article which deals with the scope of the International Classification and the obligation assumed by the countries of the Special Union to apply it.

36. Paragraph (1) of the Draft provided that the International Classification itself was solely of an administrative character and that, in particular, it did not bind the countries of the Special Union as regards the nature and scope of the protection afforded, each country being free to attribute to it the legal scope which it considered appropriate. This text was taken from the corresponding provisions of the Nice and Locarno Agreements. The Conference considered, however, that the situation was different with inventions. In its opinion, it was hardly conceivable that the nature and scope of protection afforded to an invention should be determined by the classification of the title of protection relating to it. Therefore the Conference decided, on a proposal by the Delegation of Norway, to delete the last two sentences of paragraph (1) and to retain only the first, according to which the Classification is solely of an administrative character. However, the provision as amended naturally does not prevent any country of the Special Union from giving the International Classification a legal scope which goes beyond the mere administrative character which it has in terms of the Agreement itself.

37. While providing, in paragraph (1), that the Classification was solely of an administrative character, the Draft made a

reservation, at the beginning of that paragraph, in respect of obligations imposed by the Agreement. The Conference deleted this reservation, considering it superfluous.

38. The Draft provided, in Article 4(3), that the competent authorities of the countries of the Special Union should, in particular, include the complete symbols of the classification in patents, inventors' certificates, utility models and utility certificates issued by them, and in applications relating thereto published by them. In accordance with the interpretation provided by Rule 34.1(f) of the Regulations under the Patent Cooperation Treaty, the Conference considered that the words "published applications" did not cover applications which were only laid open for public inspection. It was of the opinion, however, that it would be very useful if such applications were also classified, in particular to enable industries to inform themselves on the applications which concerned them and even to subscribe to applications relating to given subdivisions of the International Classification. Therefore, on a proposal by the Delegation of the United States of America, it decided to impose such an obligation on countries which laid applications open for inspection, which would also extend to notices by which the Administrations notified the publication of those documents. However, since the obligation in question was one which for certain Administrations might entail considerable extra work, the Conference decided, also on a proposal by the Delegation of the United States of America, to ease the work of the countries of the Special Union by giving them the possibility, by means of a reservation, of not including the symbols relating to the groups and subgroups of the International Classification in applications which were only laid open for public inspection, and in notices relating thereto.

39. It was understood, furthermore, that each country of the Special Union assumed such obligations only in respect of documents published or laid open after it was bound by the Agreement. It will not be obliged, therefore, to reclassify, according to the system of the International Classification, documents published or laid open previously.

40. In terms of Article 4(3) of the Agreement, the competent authorities of the countries of the Special Union must include, in the various documents listed in that provision, the complete symbols of the classification applied to the invention. Some delegations wondered whether the latter term was not too narrow. In their opinion, all the technical disclosure contained in the title of protection should be subject to classification, even if it was not embodied in the invention itself. On the other hand, several delegations pointed out that, in their view, the classification concerned only the essence of the invention, and that in any event the obligation imposed by



Article 4(3) was a minimum requirement, which meant that the countries of the Special Union were at liberty to include the complete symbols of the classification for the entire disclosure contained in the titles of protection. The Conference considered that it was possible in those conditions to speak of the "complete symbols of the Classification applied to the invention."

41. Briefly, Article 4(5) provides that the symbols of the Classification, preceded by the words "International Patent Classification," or an abbreviation determined by the Committee of Experts, should be printed in the heading of each document in which they are to be included. It was understood, in this connection, that the abbreviation adopted by the Committee of Experts need not necessarily include parts of all the words of the title "International Patent Classification." Therefore, if it considers it appropriate, that body may adopt, by way of abbreviation, the indication "International Classification" provided for in Article 3(3) of the European Convention. It may also prescribe the abbreviation "Int. Cl.," which is recommended by the competent bodies of the Council of Europe and widely used by Offices which apply the International Classification, or any other abbreviation which it considers suitable.

42. In addition, the Conference considered that the symbols of the Classification need not necessarily be "printed" by typographical means, but might be affixed in any other manner, provided that they are clearly visible.

43. The Delegation of the Netherlands proposed, in addition, the insertion of a new paragraph in Article 4 to determine the obligations of regional Patent Offices. Having noted that the Draft was indeed incomplete in this respect, the Conference adopted this proposal and added a paragraph (6) to Article 4 to deal with the question. As it was not possible to impose obligations directly on intergovernmental organizations which were not party to the Agreement, it provided that, if a country of the Special Union entrusted the grant of patents to an intergovernmental authority, it should take all measures in its power to ensure that this authority applies the Classification in accordance with Article 4 of the Agreement. The fact that such an intergovernmental authority applies the International Classification means that it has, for the purposes of that Classification, the same status as a national authority. In particular it may also benefit from the two reservations provided for in Article 4(4). It was understood, in this connection, that the term "patents" should be interpreted in the broad sense and should cover all the titles of protection referred to in Article 1 of the Agreement.

*Article 5*

44. This provision establishes the Committee of Experts and determines its composition, functions and procedure.

45. Paragraph (1) provides that each country of the Special Union is represented in the Committee of Experts. The expression "represented" naturally means that each country has the right to be represented in the Committee of Experts. The meaning is different in Article 5(6) in which, in connection with voting, the words "countries represented" imply representation by one or several delegates who are actually present in person.

46. The Conference examined with particular care the status of observers, which is dealt with in paragraphs (2) and (4) of Article 5.

47. The Draft provided that the Secretary General of the Council of Europe and intergovernmental organizations specialized in the field of patents might be represented by observers at the meetings of the Committee of Experts. The Delegation of Algeria proposed the deletion of any mention of a particular organization; it acknowledged the great merits of the Council of Europe in having elaborated the International Patent Classification and the debt of gratitude owed to it by non-member countries of that Organization for having placed such a valuable working document at their disposal; however, it added that a special mention was superfluous in the context of Article 5, since the Secretary General of the Council of Europe had in any case to be invited to send observers to the sessions of the Committee of Experts in terms of the general provision of Article 5(2)(a). The Conference accepted this argument and acknowledged that, for the purposes of Article 5(2)(a), the Council of Europe, in view of the leading rôle played by it in the establishment and administration of the International Classification, should be assimilated to the intergovernmental organizations specialized in the field of patents, and consequently that the Secretary General of the Council of Europe should, in accordance with this general provision, be invited to be represented by observers at the meetings of the Committee of Experts.

48. The Conference also considered that the intergovernmental organizations specialized in the field of patents referred to in Article 5(2)(a) should include the International Patent Institute of The Hague, and also regional patent offices such as the African and Malagasy Industrial Property Office and the envisaged European Patent Office. It goes without saying that, while these organizations have been specifically considered by the Conference, the list is not exhaustive. Any other organization specialized in the field of patents and fulfilling the other conditions of Article 5(2)(a) will, in terms

of that provision, be invited to send observers to the meetings of the Committee of Experts.

49. In this respect it is evident that, for the purposes of Article 5(2)(a), the term "patent" should not be interpreted in the strict sense but should include also the other titles of protection mentioned in Article 1 of the Agreement.

50. As for intergovernmental organizations not specialized in the field of patents and international non-governmental organizations, the Draft provided that it was for the Committee of Experts to invite them to be represented by observers. On a proposal by the Delegation of Austria, the Conference considered it preferable to provide that such a decision might also be taken by the Director General of WIPO. The latter will thus have to comply with requests to this effect addressed to him by the Committee of Experts, but he may also, on his own initiative, invite organizations to take part in discussions which are of interest to them (Article 5(2)(b)). This provision is inspired by Article 56(2)(d) of the Patent Cooperation Treaty.

51. The Conference was of the opinion that, in particular, intergovernmental organizations which carried out an important task in the transfer of technology should be invited in terms of Article 5(2)(b). In this connection the representative of UNCTAD stressed the activity of that Organization in this field pursuant to Resolution 2726 (XXV) on the transfer of technology, adopted by the United Nations General Assembly in December 1970.

52. With regard to Article 5(3)(iii), in terms of which the Committee of Experts assists in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions, the Conference added, on a proposal by the Delegations of Argentina and Brazil, that in doing so it should take the needs of developing countries particularly into account; for while it is clear that the reclassification of documentation used for the examination of patents is not prescribed by the Agreement (see paragraph 39 above), it would nevertheless be very useful in facilitating the examination of patent applications and the constitution of readily-accessible documentation. However, such reclassification is an extremely arduous task and is beyond the abilities of the majority of developing countries. The Committee of Experts should therefore take the needs of those countries particularly into account.

53. Moreover, the Conference was aware of the fact that, in general, the introduction and application of the International Classification was a burden which developing countries were not always in a position to bear. Consequently it adopted, on

a proposal by the Delegations of Argentina and Togo, a provision in terms of which the Committee of Experts should take all other measures which would contribute towards facilitating the application of the International Classification by developing countries; such measures should not, however, implicate the budget of the Special Union or otherwise financially affect WIPO (Article 5(3)(iv)). In this respect the International Bureau could have recourse to the same external sources of finance as those envisaged for the preparation and publication of translations of the International Classification (see paragraph 34 above).

54. The Committee of Experts will have to adopt its Rules of Procedure, which will contain more detailed provisions on its organization and which, in particular, may determine the extent to which observers referred to in Article 5(2)(a) and (b) will be allowed to attend meetings of its subcommittees and working groups. However, in view of the important part played by the International Patent Institute in the development of the International Classification, the Conference considered, following a proposal by the Delegations of the United Kingdom, France, Switzerland, the Netherlands, Belgium and Luxembourg, which was subsequently amended by Working Group I, that the rules of procedure should in any case allow for the possibility of participation of organizations referred to in Article 5(2)(a) which could perform substantial work in the development of the International Classification, in the meetings of the subcommittees and working groups of the Committee of Experts. This is provided by Article 5(4). The Conference expressly stated, following a proposal by Working Group I, that the International Patent Institute in particular would be counted among the intergovernmental organizations qualifying under that provision. However, it raised the question whether such organizations should be able to hold officer-ship in the Committee of Experts or its subcommittees and working groups. In this connection it expressed the view, following a proposal by Working Group I, that the Committee of Experts should settle this question itself after further study, having due regard to the provisions of Article 9 of the Organizational Rules of the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT).

55. In order to establish a parallel with the provisions of Article 7, which deals with the Assembly of the Special Union, the Conference decided, on a proposal by the Delegation of the United States of America, to mention expressly in Article 5 that the Committee of Experts had the right to establish subcommittees and working groups (Article 5(3)(v)).

56. For the same reason, the Conference also added a rule to Article 5(6) in terms of which each member country of the Committee of Experts has one vote (Article 5(6)(a)).

57. Article 5(6) concerns the majority by which the Committee of Experts takes its decisions. The Conference decided, on proposals by the Delegations of the United States of America and the United Kingdom, to provide that abstentions would not be considered votes, thereby adopting for the Committee of Experts a rule which already applied to the Assembly (Article 7(3)(e)).

58. The same provision introduces, in subparagraph (c), a qualified majority for any decision which is regarded by one-fifth of the countries represented as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification. Some delegations were of the opinion that the terms "modification in the basic structure of the Classification" were too vague and difficult to apply. It became clear, however, that no more satisfactory solution could be found which did not involve the risk of an excessively casuistic and dangerous enumeration. The Conference therefore accepted the proposed text.

59. In addition, the Conference considered that it was not advisable to introduce a quorum for the Committee of Experts, since insufficient attendance on the part of member countries of the Special Union might occasionally prevent it from taking decisions, even on questions of minor importance.

#### *Article 6*

60. This provision, which deals with the notification, entry into force and publication of decisions of the Committee of Experts, provides, *inter alia*, that amendments enter into force six months after the date of dispatch of the notification. Some delegations pointed out that this period was short, and that certain Offices, which lacked the necessary specialists, might experience difficulty in respecting it, especially if amendments were made frequently.

61. It is evident that amendments decided by the Committee of Experts have no retroactive effect. Countries of the Special Union are therefore obliged to comply with such amendments only in respect of documents published or laid open for public inspection after their entry into force.

#### *Article 7*

62. This provision, which establishes the Assembly of the Special Union and determines its composition, functions and

procedure, reproduces for the most part the terms of the corresponding provisions contained in the other Conventions and Agreements administered by WIPO.

63. Like the Nice and Locarno Agreements, the Draft provided in Article 7(4)(c) that "the agenda of each session shall be prepared by the Director General." The Conference noted that this somewhat imprecise text naturally meant that the Director General prepared a draft, since the Assembly had the final decision on its agenda.

64. On the subject of observers, the Conference decided, on a proposal by the Delegation of the United Kingdom, that all the intergovernmental organizations to which Article 5(2)(a) applied might be represented by observers at the meetings of the Assembly (Article 7(1)(c)). Since this solution included the Council of Europe, it was no longer necessary to retain the express reference contained in the Draft.

#### *Article 8*

65. This provision, which determines the tasks which the International Bureau has to perform for the Special Union, is in conformity with the terms of the corresponding provisions of the other Conventions and Agreements administered by WIPO.

#### *Article 9*

66. Article 9 concerns financial questions, which it deals with in the same manner as the other Conventions and Agreements administered by WIPO.

67. In particular, it provides that the contribution of each country to the Special Union should be established on the basis of the class to which it belongs in the Paris Union for the Protection of Industrial Property. The Conference preferred to abide by this system, which is that of the other Unions established within the framework of the Paris Union, rather than allow member countries of the Special Union to choose a class, for the purposes of that Union, independently of the choice made for the Paris Union. The Conference took this decision in order to avoid administrative complications which, in its opinion, served no useful purpose.

68. By the same token, the Conference retained the system used by the other Unions with respect to the working capital fund. Indeed, the Special Union needed such a fund in view of the fact that, while the contributions of the countries became due on the first of January of each year, they were generally not paid until later.

*Article 10*

69. Briefly, this Article provides that the Agreement may be revised from time to time by means of special conferences. Its text corresponds to Article 60 of the Patent Cooperation Treaty. The Conference adopted it without comment.

*Article 11*

70. This provision gives the Assembly the possibility of amending certain provisions of the Agreement itself on its own authority. It is essentially similar to Article 61 of the Patent Cooperation Treaty. The Conference adopted it without comment.

*Article 12*

71. Article 12 determines the procedure according to which countries may become party to the Agreement, reproducing the terms of Article 62 of the Patent Cooperation Treaty. It was adopted without comment by the Conference.

*Article 13*

72. This provision deals with the entry into force of the Agreement. Since it is intended to effect the transition from the system of the European Convention to the broader system of the Agreement, it first makes entry into force subject to the condition that two-thirds of the countries currently party to the European Convention ratify it or accede to it (Article 13(3)(a)(i)). Those countries are currently fifteen in number: Australia, Belgium, Denmark, France, Germany (Federal Republic), Ireland, Israel, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom. Consequently the new system will not enter into force until a substantial majority of countries has abandoned the old one. Moreover, it seemed that the change of system would not be justified unless it guaranteed an extension of the application of the International Classification. This is why Article 13 also provides that the Agreement will not enter into force until after the ratification or accession of at least three countries party to the Paris Convention but not to the European Convention, of which at least one must be a country which annually receives more than 40,000 applications for patents or inventors' certificates (Article 13(1)(a)(ii)). In adopting this provision, the Conference was conscious of two precedents: the Hague Agreement concerning the International Deposit of Industrial Designs, as revised at The Hague in 1960 (Article 26(1)) and the Patent Cooperation Treaty (Article 63).

73. Article 13(1)(c) provides that each country party to the European Convention which ratifies the Agreement or accedes to it is obliged to denounce that Convention, at the latest with effect from the day on which the Agreement enters into force with respect to that country. The provision was designed to avoid a situation in which countries were party to the Agreement and the European Convention at the same time. However, if their instruments of ratification or accession are those to which Article 13(1)(a)(i), applies, they may declare that their denunciation of the European Convention will come into effect not a year after its notification under Article 8(2) and (3) of that Convention, but, at the earliest, one year after the deposit of the last instrument of ratification or accession required for the Agreement to enter into force. They would thus avoid the risk of being no longer party to the European Convention before the entry into force of the Agreement.

#### *Article 14*

74. In the Draft, this Article provided that the Agreement had the same force and duration as the Paris Convention. The Conference deleted the words "force and", which it considered unnecessary.

#### *Article 15*

75. Article 15 determines the question of denunciation in a manner similar to the corresponding provisions of the other Conventions and Agreements administered by WIPO. The Conference adopted it, after having deleted the second sentence of paragraph (1), in terms of which "such denunciation shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union." It considered this provision self-evident and therefore unnecessary.

#### *Article 16*

76. This Article governs the signature of the Agreement, and the languages, notifications and depositary functions.

77. With regard to signature and deposit, the Conference adapted the Agreement, on a proposal by the Delegations of Brazil, France, Germany (Federal Republic), the United Kingdom and the United States of America, to the corresponding provisions of the Patent Cooperation Treaty (Articles 67(1) and (3) and 68(1)). The original of the Agreement, in the English and French languages, will be signed at Strasbourg, where it will remain open for signature until September 30,



1971. It will then be deposited with the Director General of WIPO.

78. As for the languages of the Agreement, the Draft left the Assembly to decide on the languages in which the official texts of the Agreement would be established. The Conference maintained this rule in principle. However, on a proposal by the Delegations of Argentina and Brazil, and inspired by Article 67(1)(b) of the Patent Cooperation Treaty, it decided that official texts would in any case be established in the German, Japanese, Portuguese, Russian and Spanish languages. The International Bureau would thus not be obliged to await the entry into force of the Agreement and the first session of the Assembly before preparing texts of the Agreement in the languages indicated.

79. As far as notification and depositary functions are concerned, Article 16 is also inspired by the corresponding provisions of the Patent Cooperation Treaty (Articles 68(2) to (4) and 69). It also provides that the Director General must, on request, transmit to the Government of any signatory or acceding country a certified copy of the International Classification.

80. With regard to the notifications to be made by the Director General in terms of Article 16(5), the Conference considered, in the light of Article 69 of the Patent Cooperation Treaty, that it was preferable to list them in itemized form; it also adopted a more logical order, and completed the list with the additional mention of reservations concerning the use of the Classification.

#### *Article 17*

81. This Article contains the transitional provisions which will enable countries party to the European Convention but not yet members of the Special Union to exercise, for a limited period, certain rights within the Assembly of the Union and the Committee of Experts. In adopting these provisions, the Conference sought to ensure a smooth changeover from the old system to the new; in particular, it took into consideration the possibility that, after the entry into force of the Agreement, some countries might for a time remain bound by the European Convention and no longer have the practical possibility of developing their International Classification; it is important, therefore, that they be able, pending their accession to the Agreement — and in so far as that accession is not delayed too much — to follow the work of the bodies of the Special Union, and even to participate, for a limited period, with full rights, in the work of the Committee of Experts and its subcommittees and working groups.

In adopting the text of the Draft in this respect, the Conference drew inspiration especially from the precedent of the so-called five-year privilege, which is contained in all the Stockholm texts (see, in particular, Article 21(2)(a) of the Convention establishing WIPO and Article 30(2) of the Paris Convention).

## VII. Recommendations

82. The Conference also adopted three recommendations.

83. The first concerns the collaboration between the Secretariat General of the Council of Europe and the International Bureau of WIPO until entry into force of the new Agreement. This collaboration has already existed for more than two years, and a study should be made, in the light of past experience, of the question of whether it is advisable to amplify, adapt or make more precise the existing arrangements, especially since it is envisaged that the International Bureau of WIPO will gradually take over the entire administration of the International Classification. It is the study of this revision which the Conference, in its first recommendation, proposed to the Secretary General of the Council of Europe and the Director General of WIPO.

84. The second recommendation concerns the financing of the administration mentioned in the preceding paragraph. Until the Agreement has entered into force and the cost of work undertaken in connection with the Special Union can be covered by means of the budget of that Union, the administration of the International Classification in so far as it devolves on the International Bureau of WIPO, can only be financed by special contributions by the member countries of the Paris Union, independent of their compulsory contributions to that Union. The situation is the same as for the work undertaken in connection with the Patent Cooperation Treaty and ICIREPAT. In its second recommendation, the Conference proposed to the Director General of WIPO that he elaborate proposals to this effect, with the aid of a working group, and that he submit these to the Executive Committee of the Paris Union at its 1971 session.

85. Finally, on a proposal by the Delegation of Romania, the Conference adopted a third recommendation concerning the exchange of lists of patent documents reclassified according to the International Classification. Several Patent Offices have reclassified, or are going to reclassify, patent documents previously classified according to their national classifications. If, to do this, they draw up lists of documents indicating the symbols of the new and, where appropriate, the old classification, it is in the general interest that they should place

those lists at the disposal of the other Offices, thereby avoiding the repetition of the same work by several Administrations. The Conference therefore recommended to countries of the Paris Union which had such lists and tables at their disposal that they allow other countries to take advantage of them if asked to do so. It also considered that the International Bureau of WIPO could perform useful work as intermediary in the promotion of such exchanges, and accordingly asked it to do so on request.

### VIII. Conclusion

86. The European Convention on the International Classification of Patents renders important services to the countries which have acceded to it. It provides them with a working document of unparalleled value which each of them would otherwise have to elaborate separately. Indeed it saves them an immense amount of reclassification work in their exchanges of documents. These many and great advantages are now made available to all the countries of the Paris Union by the Strasbourg Agreement Concerning the International Patent Classification. This Agreement, an essential adjunct to the important Patent Cooperation Treaty which was adopted recently, binds countries together in ever-closer cooperation in the field of industrial property for the greater benefit of them all.

*The present Report was unanimously adopted by the Plenary of the Conference on March 22, 1971.*

# **SIGNED TEXTS**



## **Strasbourg Agreement Concerning the International Patent Classification**

of March 24, 1971

The Contracting Parties,

Considering that the universal adoption of a uniform system of classification of patents, inventors' certificates, utility models and utility certificates is in the general interest and is likely to establish closer international cooperation in the industrial property field, and to contribute to the harmonization of national legislation in that field,

Recognizing the importance of the European Convention on the International Classification of Patents for Invention, of December 19, 1954, under which the Council of Europe created the International Classification of Patents for Invention,

Having regard to the universal value of this Classification, and to its importance to all countries party to the Paris Convention for the Protection of Industrial Property,

Having regard to the importance to developing countries of this Classification, which gives them easier access to the ever-expanding volume of modern technology,

Having regard to Article 19 of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967,

Agree as follows:

### **Article 1**

#### **Establishment of a Special Union; Adoption of an International Classification**

The countries to which this Agreement applies constitute a Special Union and adopt a common classification for patents for invention, inventors' certificates, utility models and utility certificates, to be known as the "International Patent Classification" (hereinafter designated as the "Classification").

### **Article 2**

#### **Definition of the Classification**

- (1) (a) The Classification comprises:
- (i) the text which was established pursuant to the provisions of the European Convention on the International

Classification of Patents for Invention of December 19, 1954 (hereinafter designated as the "European Convention"), and which came into force and was published by the Secretary General of the Council of Europe on September 1, 1968;

- (ii) the amendments which have entered into force pursuant to Article 2(2) of the European Convention prior to the entry into force of this Agreement;
- (iii) the amendments made thereafter in accordance with Article 5 which enter into force pursuant to the provisions of Article 6.

(b) The Guide and the notes included in the text of the Classification are an integral part thereof.

(2) (a) The text referred to in paragraph (1)(a)(i) is contained in two authentic copies, each in the English and French languages, deposited, at the time that this Agreement is opened for signature, one with the Secretary General of the Council of Europe and the other with the Director General of the World Intellectual Property Organization (hereinafter respectively designated "Director General" and "Organization") established by the Convention of July 14, 1967.

(b) The amendments referred to in paragraph (1)(a)(ii) shall be deposited in two authentic copies, each in the English and French languages, one with the Secretary General of the Council of Europe and the other with the Director General.

(c) The amendments referred to in paragraph (1)(a)(iii) shall be deposited in one authentic copy only, in the English and French languages, with the Director General.

### Article 3

#### Languages of the Classification

(1) The Classification shall be established in the English and French languages, both texts being equally authentic.

(2) Official texts of the Classification, in German, Japanese, Portuguese, Russian, Spanish and in such other languages as the Assembly referred to in Article 7 may designate, shall be established by the International Bureau of the Organization (hereinafter designated as the "International Bureau"), in consultation with the interested Governments and either on the basis of a translation submitted by those Governments or by any other means which do not entail financial implications for the budget of the Special Union or for the Organization.

#### Article 4 Use of the Classification

(1) The Classification shall be solely of an administrative character.

(2) Each country of the Special Union shall have the right to use the Classification either as a principal or as a subsidiary system.

(3) The competent authorities of the countries of the Special Union shall include in

- (i) patents, inventors' certificates, utility models and utility certificates issued by them, and in applications relating thereto, whether published or only laid open for public inspection by them, and
- (ii) notices, appearing in official periodicals, of the publication or laying open of the documents referred to in subparagraph (i)

the complete symbols of the Classification applied to the invention to which the document referred to in subparagraph (i) relates.

(4) When signing this Agreement or when depositing its instrument of ratification or accession:

- (i) any country may declare that it does not undertake to include the symbols relating to groups or subgroups of the Classification in applications as referred to in paragraph (3) which are only laid open for public inspection and in notices relating thereto, and
- (ii) any country which does not proceed to an examination as to novelty, whether immediate or deferred, and in which the procedure for the grant of patents or other kinds of protection does not provide for a search into the state of the art, may declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in the documents and notices referred to in paragraph (3). If these conditions exist only in relation to certain kinds of protection or certain fields of technology, the country in question may only make this reservation to the extent that the conditions apply.

(5) The symbols of the Classification, preceded by the words "International Patent Classification" or an abbreviation thereof to be determined by the Committee of Experts referred to in Article 5, shall be printed in heavy type, or in such a manner that they are clearly visible, in the heading of each document referred to in paragraph (3)(i) in which they are to be included.

(6) If any country of the Special Union entrusts the grant of patents to an intergovernmental authority, it shall take all possible measures to ensure that this authority uses the Classification in accordance with this Article.



## Article 5 Committee of Experts

(1) A Committee of Experts shall be set up in which each country of the Special Union shall be represented.

(2) (a) The Director General shall invite intergovernmental organizations specialized in the patent field, and of which at least one of the member countries is party to this Agreement, to be represented by observers at meetings of the Committee of Experts.

(b) The Director General may, and, if requested by the Committee of Experts, shall, invite representatives of other intergovernmental and international non-governmental organizations to participate in discussions of interest to them.

(3) The Committee of Experts shall:

- (i) amend the Classification;
- (ii) address recommendations to the countries of the Special Union for the purpose of facilitating the use of the Classification and promoting its uniform application;
- (iii) assist in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions, taking in particular the needs of developing countries into account;
- (iv) take all other measures which, without entailing financial implications for the budget of the Special Union or for the Organization, contribute towards facilitating the application of the Classification by developing countries;
- (v) have the right to establish subcommittees and working groups.

(4) The Committee of Experts shall adopt its own Rules of Procedure. These shall allow for the possibility of participation of intergovernmental organizations, referred to in paragraph (2)(a), which can perform substantial work in the development of the Classification, in meetings of its subcommittees and working groups.

(5) Proposals for amendments to the Classification may be made by the competent authority of any country of the Special Union, the International Bureau, any intergovernmental organization represented in the Committee of Experts pursuant to paragraph (2)(a) and any other organization specially invited by the Committee of Experts to submit such proposals. The proposals shall be communicated to the International Bureau which shall submit them to the members of the Committee of Experts and to the observers not later than two months before the session of the Committee of Experts at which the said proposals are to be considered.

(6) (a) Each country member of the Committee of Experts shall have one vote.

(b) The decisions of the Committee of Experts shall require a simple majority of the countries represented and voting.

(c) Any decision which is regarded by one-fifth of the countries represented and voting as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification shall require a majority of three-fourths of the countries represented and voting.

(d) Abstentions shall not be considered as votes.

### Article 6

#### Notification, Entry into Force and Publication of Amendments and Other Decisions

(1) Every decision of the Committee of Experts concerning the adoption of amendments to the Classification and recommendations of the Committee of Experts shall be notified by the International Bureau to the competent authorities of the countries of the Special Union. The amendments shall enter into force six months from the date of dispatch of the notification.

(2) The International Bureau shall incorporate in the Classification the amendments which have entered into force. Announcements of the amendments shall be published in such periodicals as are designated by the Assembly referred to in Article 7.

### Article 7

#### Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

(b) The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(c) Any intergovernmental organization referred to in Article 5(2)(a) may be represented by an observer in the meetings of the Assembly, and, if the Assembly so decides, in those of such committees or working groups as may have been established by the Assembly.

(d) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Article 5, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

- (ii) give directions to the International Bureau concerning the preparation for conferences of revision;
- (iii) review and approve the reports and activities of the Director General concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;
- (iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;
- (v) adopt the financial regulations of the Special Union;
- (vi) decide on the establishment of official texts of the Classification in languages other than English, French and those listed in Article 3(2);
- (vii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;
- (viii) determine, subject to paragraph (1)(c), which countries not members of the Special Union and which inter-governmental and international non-governmental organizations shall be admitted as observers to its meetings, and to those of any committee or working group established by it;
- (ix) take any other appropriate action designed to further the objectives of the Special Union;
- (x) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take

effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 11(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(4) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own Rules of Procedure.

### Article 8 International Bureau

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts and such other committees or working groups as may have been established by the Assembly or the Committee of Experts.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts and such other committees or working groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be *ex officio* secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for revision conferences.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

## Article 9 Finances

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

- (i) contributions of the countries of the Special Union;
- (ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;
- (iv) gifts, bequests and subventions;
- (v) rents, interests and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it was notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

**Article 10**  
**Revision of the Agreement**

(1) This Agreement may be revised from time to time by a special conference of the countries of the Special Union.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Articles 7, 8, 9 and 11 may be amended either by a revision conference or according to the provisions of Article 11.

**Article 11**  
**Amendment of Certain Provisions of the Agreement**

(1) Proposals for the amendment of Articles 7, 8, 9 and of the present Article may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 7 and to the present paragraph shall require four-fifths of the votes cast.

(3) (a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted.

(b) Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all countries which become members of the Special Union after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

**Article 12**  
**Becoming Party to the Agreement**

(1) Any country party to the Paris Convention for the Protection of Industrial Property may become party to this Agreement by:

- (i) signature followed by the deposit of an instrument of ratification, or
- (ii) deposit of an instrument of accession.

(2) Instruments of ratification or accession shall be deposited with the Director General.

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(4) Paragraph (3) shall in no way be understood as implying the recognition or tacit acceptance, by a country of the Special Union, of the factual situation concerning a territory to which this Agreement is made applicable by another country by virtue of the said paragraph.

### Article 13

#### Entry into Force of the Agreement

(1) (a) This Agreement shall enter into force one year after instruments of ratification or accession have been deposited by:

- (i) two-thirds of the countries party to the European Convention on the date on which this Agreement is opened for signature, and
- (ii) three countries party to the Paris Convention for the Protection of Industrial Property, which were not previously party to the European Convention and of which at least one is a country where, according to the most recent annual statistics published by the International Bureau on the date of deposit of its instrument of ratification or accession, more than 40,000 applications for patents or inventors' certificates have been filed.

(b) With respect to any country other than those for which this Agreement has entered into force pursuant to subparagraph (a), it shall enter into force one year after the date on which the ratification or accession of that country was notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(c) Countries party to the European Convention which ratify this Agreement or accede to it shall be obliged to denounce the said Convention, at the latest, with effect from the day on which this Agreement enters into force with respect to those countries.

(2) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.



**Article 14**  
**Duration of the Agreement**

This Agreement shall have the same duration as the Paris Convention for the Protection of Industrial Property.

**Article 15**  
**Denunciation**

(1) Any country of the Special Union may denounce this Agreement 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.

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

**Article 16**  
**Signature, Languages, Notification, Depositary Functions**

(1) (a) This Agreement shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) This Agreement shall remain open for signature at Strasbourg until September 30, 1971.

(c) The original of this Agreement, when no longer open for signature, shall be deposited with the Director General.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in German, Japanese, Portuguese, Russian, Spanish and such other languages as the Assembly may designate.

(3) (a) The Director General shall transmit two copies, certified by him, of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Government of any other country. He shall also transmit a copy, certified by him, to the Secretary General of the Council of Europe.

(b) The Director General shall transmit two copies, certified by him, of any amendment to this Agreement to the Governments of all countries of the Special Union and, on request, to the Government of any other country. He shall also transmit a copy, certified by him, to the Secretary General of the Council of Europe.

(c) The Director General shall, on request, furnish the Government of any country that has signed this Agreement, or that accedes to it, with a copy of the Classification, certified by him, in the English or French language.

(4) The Director General shall register this Agreement with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries party to the Paris Convention for the Protection of Industrial Property and the Secretariat General\* of the Council of Europe of:

- (i) signatures;
- (ii) deposits of instruments of ratification or accession;
- (iii) the date of entry into force of this Agreement;
- (iv) reservations on the use of the Classification;
- (v) acceptances of amendments to this Agreement;
- (vi) the dates on which such amendments enter into force;
- (vii) denunciations received.

#### Article 17 Transitional Provisions

(1) During the two years following the entry into force of this Agreement, the countries party to the European Convention which are not yet members of the Special Union may enjoy, if they so wish, the same rights in the Committee of Experts as if they were members of the Special Union.

(2) During the three years following the expiration of the period referred to in paragraph (1), the countries referred to in the said paragraph may be represented by observers in the meetings of the Committee of Experts and, if the said Committee so decides, in any subcommittee or working group established by it. During the same period they may submit proposals for amendments to the Classification, in accordance with Article 5(5), and shall be notified of the decisions and recommendations of the Committee of Experts, in accordance with Article 6(1).

\* *Editor's Note:* The English text refers to "Secretariat General" instead of "Secretary General". The French text ("Secrétaire général") seems more correct.

(3) During the five years following the entry into force of this Agreement, the countries party to the European Convention which are not yet members of the Special Union may be represented by observers in the meetings of the Assembly and, if the Assembly so decides, in any committee or working group established by it.

IN WITNESS WHEREOF, the undersigned  
being duly authorized hereto, have signed  
this Agreement.

DONE at Strasbourg, on March 24, 1971.

Belgium (J. Lodewyck); Denmark (E. Tuxen); Finland (E.V. Tuuli); Germany (Federal Republic) (R. von Keller, K. Haertel); Greece (G. Papoulias — ad referendum); Holy See (L. Ganghoffer); Italy (P. Archi); Liechtenstein (A.F. de Gerliczy-Burian); Luxembourg (J.P. Hoffmann); Norway (L. Nordstrand); Spain (Count of Santovenia, A.F. Mazarambroz y Martín Rabadán)<sup>1</sup>; Sweden (G. Borggård); Switzerland (W. Stamm); United Kingdom (E. Armitage); United States of America (R. A. Wahl, H. J. Winter); Yugoslavia (N. Janković).

*Editor's Note:* The Strasbourg Agreement was also signed within the period provided for in Article 16(5) by the following countries: Austria, September 9, 1971 (H. Laube); Brazil, June 28, 1971 (P. Cabral de Mello); France, September 20, 1971 (M. de Camaret); Iran, June 22, 1971 (H. Pakravan); Japan, September 13, 1971 (H. Kitahara); Monaco, September 27, 1971 (R. Jung); Netherlands, September 22, 1971 (J. G. de Jong).

<sup>1</sup> At the time of signature, the Government of Spain declared its intention to take advantage of the possibility available to it under Article 4(4) of the Agreement.

**Final Act  
of the Strasbourg Diplomatic Conference  
on the International Patent Classification**

(1971)

On the invitation of the Secretary General of the Council of Europe and the Director General of the World Intellectual Property Organization, the Strasbourg Diplomatic Conference on the International Patent Classification was held from March 15 to 24, 1971.

The Conference adopted the Strasbourg Agreement concerning the International Patent Classification which was opened for signature in Strasbourg on March 24, 1971.

In witness whereof, the undersigned, being Delegates of the States invited to the Conference, have signed this Final Act.

Done at Strasbourg, on March 24, 1971, in the English and French languages, the original to be deposited with the Director General of the World Intellectual Property Organization.

Algeria (I. Bendifallah); Argentina (L.M. Laurelli); Australia (G. Henshilwood); Austria (G. Gall); Belgium (J. Lodewyck); Brazil (P. Cabral de Mello); Denmark (E. Tuxen) Finland (E.V. Tuuli); France (F. Savignon); Germany (Federal Republic) (R. von Keller, K. Haertel); Greece (G. Papoulias); Holy See (L. Ganghoffer); Ireland (P. Slavin); Italy (P. Archi); Japon (Y. Abe); Liechtenstein (A. F. de Gerliczy-Burian); Luxembourg (J. F. Hoffmann); Monaco (R. Jung); Netherlands (W. M. J. C. Phaf); Norway (L. Nordstrand); Philippines (P. A. Castro); Romania (L. Marinete); South Africa (W.W. Rautenbach); Spain (Count of Santovenia, A.F. Mazarambroz y Martín Rabadán); Sweden (Borggård); Switzerland (W. Stamm); Togo (E. Bonete); United Kingdom (E. Armitage); United States of America (R. A. Wahl, H. J. Winter); Yugoslavia (N. Janković).

*Editor's Note:* The Final Act of the Strasbourg Diplomatic Conference was also signed by Iran, on June 22, 1971 (H. Pakravan).



**RECOMMENDATIONS  
ADOPTED BY THE CONFERENCE**



## Recommendations adopted by the Conference

### I

#### Recommendation Concerning the IPC Administration

The Strasbourg Diplomatic Conference on the International Patent Classification,

Referring to the decisions of the Committee of Ministers of the Council of Europe at its 178<sup>th</sup> meeting and of the Executive Committee of the Paris Union at its Fourth Session, concerning the setting up of the Joint ad hoc Committee of the Council of Europe and WIPO on the International Classification of Patents,

Considering that the signature of the Strasbourg Agreement will mark the beginning of a new phase in the administration of the International Patent Classification,

*Recommends* to the Secretary General of the Council of Europe and to the Director General of the World Intellectual Property Organization that they examine, where appropriate in consultation with the Committees concerned, whether it is desirable to submit new proposals to the Committee of Ministers of the Council of Europe and to the Executive Committee of the Paris Union, with a view to completing, making more specific, or adapting the decisions taken previously by the said Committee of Ministers and the said Executive Committee.

### II

#### Recommendation Concerning the Financing of the IPC Administration

The Strasbourg Diplomatic Conference on the International Patent Classification,

Considering that the budget of the Paris Union for the Protection of Industrial Property will not cover the expenses incurred by the International Bureau of WIPO in the administration of the International Patent Classification until the Strasbourg Agreement has entered into force,

Considering that those expenses should be covered by special contributions by the various member countries of the Paris Union which are interested in the International Patent Classification,

*Recommends* that the Director General of WIPO prepare, with the assistance of a Working Group, proposals for this purpose and that he submit these to the Executive Committee of the Paris Union at its 1971 session.



## III

**Recommendation Concerning the Exchange of Lists of Patent Documents Reclassified According to the International Patent Classification**

The Strasbourg Diplomatic Conference on the International Patent Classification,

Considering the importance of reinforcing international cooperation in the patent field to foster the development of technology,

Taking into account the importance of a modern documentation of technology in order to meet the needs of Patent Offices as well as those of scientific research and of industry,

Having regard to the Strasbourg Agreement Concerning the International Patent Classification, adopted by the Diplomatic Conference,

Having regard to the importance of uniformity in any reclassification which may be made of patent documents according to the said Classification for international cooperation in the patent field, in particular in the framework of the Patent Cooperation Treaty (PCT),

Taking into consideration the necessity to avoid, as much as possible, a duplication of effort in the work of reclassification of patent documents,

*Recommends* to the countries of the Paris Union for the Protection of Industrial Property to exchange, upon request, existing lists of patent documents, either national or also foreign, established by their Offices, resulting from the reclassification of their search files according to the International Classification, whether these lists comprise patents, inventors' certificates, utility models, utility certificates or applications for the said kinds of protection,

*Invites* the International Bureau of WIPO to cooperate with national Offices in an effort to facilitate such exchanges, if requested.

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<sup>2</sup> This State has since changed its name; at the time of publication of these *Records* it is designated as the "Zaire".

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<sup>1</sup> This State has since changed its name. Records of it is designated as 'YEMEN'.

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<sup>1</sup> This State has since changed its name; at the time of publication of these *Records* it is designated as the "Egypt".

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