

ITL Information on WIPO
World Intellectual Property Organisation

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INFORMATION ON THE WORLD INTELLECTUAL PROPERTY ORGANISATION 1

WIPO 2

I. HISTORY 3

The World Intellectual Property Organisation - referred to in abbreviated form as “WIPO” in English, and “OMPI” in French and Spanish - was established by a convention signed in Stockholm on July 14, 1967, entitled “*Convention Establishing the World Intellectual Property Organisation*” The WIPO Convention entered into force in 1970. 4

The origins of what is now WIPO go back to 1883 when the *Paris Convention for the Protection of Industrial Property* was adopted and to 1886 when the *Berne Convention for the Protection of Literary and Artistic Works* was adopted. Both Conventions provided for the establishment of an “International Bureau” or secretariat. The two Bureaus were united in 1893 and functioned under various names until 1970 when they were replaced by the International Bureau of Intellectual Property (commonly designated as “the International Bureau”) by virtue of the WIPO Convention. 5

WIPO became a specialised agency in the United Nations system of organisations in 1974. 6

II. OBJECTIVES 7

The objectives of WIPO are: 8

(i) to promote the protection of intellectual property throughout the world through co-operation among States and, where appropriate, in collaboration with any other international organisation; 9

(ii) to ensure administrative co-operation among the intellectual property Unions, that is, the “Unions” created by the Paris and Berne Conventions and several sub-treaties concluded by members of the Paris Union. 10

Intellectual property comprises two main branches: *industrial property*, chiefly in inventions, trademarks and industrial designs, and *copyright*, chiefly in literary, musical, artistic, photographic and audio-visual works. 11

As to the *promotion of the protection of intellectual property throughout the world*, WIPO encourages the conclusion of new international treaties and the modernisation of national legislations; it gives technical assistance to developing countries; it assembles and disseminates information; it maintains services for facilitating the obtaining of protection of inventions, marks and industrial designs for which protection in several countries is desired and promotes other administrative co-operation among member States. 12

As to the *administrative co-operation among the Unions*, WIPO centralises the administration of the Unions in the International Bureau in Geneva, which is the secretariat of WIPO, and 13

supervises such administration through its various organs. Centralisation ensures economy for the member States and the private sector concerned with intellectual property.

On January 1, 1996, WIPO administered the following Unions or treaties (listed in chronological order of their creation): *in the field of industrial property*, the *Paris Union* (for the protection of industrial property), the *Madrid Agreement* (for the repression of false or deceptive indications of source on goods), the *Madrid Union* (for the international registration of marks), the *Hague Union* (for the international deposit of industrial designs), the *Nice Union* (for the international classification of goods and services for the purposes of the registration of marks), the *Lisbon Union* (for the protection of appellations of origin and their international registration), the *Locarno Union* (for the establishment of an international classification for industrial designs), the *PCT (Patent Co-operation Treaty) Union* (for co-operation in filing, searching and examination of international applications for the protection of inventions where such protection is sought in several countries), the *IPC (International Patent Classification) Union* (for the establishment of world-wide uniformity of patent classification), the *Vienna Union* (for the establishment of an international classification of the figurative elements of marks), the *Budapest Union* (for the international recognition of the deposit of micro-organisms for the purposes of patent procedure), the *Nairobi Treaty* (on the protection of the Olympic Symbol), the *Trademark Law Treaty* (for the simplification of formalities before trademark registries), and, *in the field of copyright or neighbouring rights*, the *Berne Union* (for the protection of literary or artistic works), the *Rome Convention* (for the protection of performers, producers of phonograms and broadcasting organisations; administered in co-operation with UNESCO and ILO), the *Geneva Convention* (for the protection of producers of phonograms against unauthorised duplication of their phonograms), and the *Brussels Convention* (relating to the distribution of programme-carrying signals transmitted by satellite). 14

As far as WIPO's status as a specialised agency of the United Nations is concerned, it is to be noted that, under Article 1 of its Agreement with the United Nations, WIPO is responsible for taking appropriate action in accordance with its basic instrument, and the treaties and agreements administered by it, *inter alia*, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate their economic, social and cultural development, subject to the competence of the United Nations and its organs, and of other agencies within the United Nations system of organisations. 15

WIPO has, since January 1, 1996, an agreement with the World Trade Organisation (WTO); which is not a member of the United Nations system of organisations. The agreement provides for co-operation between the International Bureau of WIPO and the Secretariat of WTO in respect of assistance to developing countries and in respect of the notification and collection of the intellectual property laws and regulations of the members of WTO. 16

In planning and implementing its activities for developing countries, WIPO is guided by the relevant objectives of international co-operation for development, with particular reference to making full use of intellectual property for encouraging domestic creative activity, for facilitating the acquisition of foreign technology and the use of literary and artistic works of foreign origin, and for organising easier access to the scientific and technological information contained in millions of patent documents. All this should serve the cultural, economic and social devel- 17

opment of developing countries.

III. ORGANS

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WIPO has three governing bodies, that is, organs established by the WIPO Convention, the members of which are States. They are the General Assembly (whose members are the States members of WIPO which are also members of the Paris and/ or Berne Unions), the Conference (whose members are all the States members of WIPO), the Co-ordination Committee (whose members are elected among the members of WIPO and the Paris and Berne Unions, Switzerland being an *ex officio* member; on January 1, 1996, this Committee had 68 members).

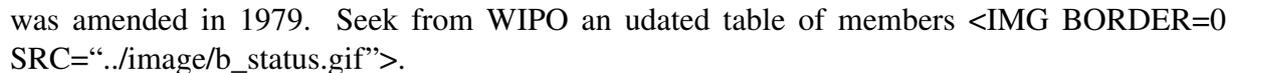
The General Assembly and the Conference meet in ordinary session once every two years, whereas the Co-ordination Committee meets in ordinary session once a year.

The executive head of WIPO is the Director General. The Director General is elected by the General Assembly.

The secretariat of WIPO is called “the International Bureau”.

IV. MEMBERSHIP

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As of 1 January 1996, there were 157 States which are party to the *Convention Establishing the World Intellectual Property Organisation (WIPO)*. The Convention, concluded in 1967, was amended in 1979. Seek from WIPO an updated table of members .

Membership in WIPO is open to any State which is a member of the Paris or Berne Unions and to any other State satisfying one of the following conditions: (i) it is a member of the United Nations, any of the specialised agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, (ii) it has been invited by the General Assembly of WIPO to become a party to the Convention. (States party to the Paris or Berne Conventions may become members of WIPO only if they are already bound by, or concurrently ratify or accede to, at least the administrative provisions of the Stockholm (1967) Act of the Paris Convention or of the Paris (1971) Act of the Berne Convention.

To become a member, a State must deposit an instrument of ratification or accession with the Director General of WIPO at Geneva.

V. INTERNATIONAL PROTECTION OF INDUSTRIAL PROPERTY

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Industrial property deals principally with the protection of inventions, marks (trademarks and service marks) and industrial designs, and the repression of unfair competition.

The three subjects first mentioned have certain features in common inasmuch as protection is granted for inventions, marks and industrial designs in the form of exclusive rights of exploitation. The repression of unfair competition is not concerned with exclusive rights, but is directed against acts of competition contrary to honest practices in industrial or commercial matters, for example, in relation to undisclosed information (trade secrets).

Industrial property also deals with the protection of geographical indications (indications of source and appellations of origin)* 30

*The TRIPS Agreement mentions also “layout-designs (topographies) of integrated circuits” and “undisclosed information” (commonly called “trade secrets”) among the objects of intellectual property rights. 31

A. INVENTIONS 32

An invention is a novel idea which permits in practice the solution of a specific problem in the field of technology. Under most legislations concerning inventions, the idea, in order to be protected by law (“patentable”), must be *new* in the sense that it has not already been published or publicly used; it must be *non-obvious* in the sense that it would not have occurred to any specialist in the particular industrial field, had such a specialist been asked to find a solution to the particular problem; and it must be *applicable in industry* in the sense that it can be industrially manufactured or used. 33

A *patent* is a document, issued by a government office, which describes the invention and creates a legal situation in which the patented invention can normally only be exploited (made, used, sold, imported) by, or with the authorisation of, the patentee. The protection of inventions is limited in time (generally 20 years from the filing date of the application for the grant of a patent). 34

It is estimated that the number of patents granted world-wide in 1994 was about 670,000. Furthermore, it is estimated that at the end of 1994 about 4 million patents were in force in the world. 35

B. MARKS 36

A mark is a sign which serves to distinguish the goods or services of one undertaking from those of other undertakings. The sign may particularly consist of one or more distinctive words, letters, numbers, drawings or pictures, emblems, colours or combinations of colours, or may be three-dimensional, such as the form of containers or packages for the product (provided they are not solely dictated by their function). The sign may also consist of combinations of any of the foregoing. 37

Although in some countries and in some situations a mark may be protected without registration, it is generally necessary for the effective protection that a mark be registered in a government office (usually the same office as that which grants patents). Registration is made in respect of specified goods or services. If a mark is registered, then no person or enterprise other than its owner may use it for goods or services identical with or similar to those for which the mark is registered. Any unauthorised use of a sign similar to the protected mark is also prohibited, if such use may lead to confusion in the minds of the public. The protection of a mark is generally not limited in time, provided its registration is periodically renewed (typically every 10 years) and its use continues. 38

It is estimated that the number of registrations and renewals of marks effected world-wide in 39

1994 was about 1.1 million; this number does not include the 29,069 international registrations and renewals under the *Madrid Agreement* which correspond to some 220,000 national registrations or renewals.

More than 8 million registrations of marks were in force at the end of that year; this figure does not include the approximately 300,000 international registrations under the *Madrid Agreement* which correspond to approximately 3 million national registrations. 40

C. INDUSTRIAL DESIGNS 41

An industrial design is the ornamental aspect of a useful article. This ornamental aspect may be constituted by elements which are three-dimensional (the shape of the article) or two-dimensional (lines, designs, colours) but must not be solely dictated by the function for which the useful article is intended. To be eligible for protection in a country, industrial designs must be original or novel and must be registered in a government office (usually the same office as that which grants patents). Protection of an industrial design means that it may not be lawfully copied or imitated without the registered owner's authorisation, and copies or imitations made without such authorisation may not lawfully be sold or imported. Protection is given for a limited period of time (generally, 10 to 15 years). 42

In some countries some kinds of industrial designs are (also) protected as works of art (works of art being objects of copyright protection). 43

It is estimated that the number of registrations (and renewals) of industrial designs effected world-wide in 1994 was about 210,000; this number does not include the 5,446 designs registrations or renewals under the *Hague Agreement*. About 1.3 million industrial design registrations were in force at the end of that year. 44

D. UNFAIR COMPETITION 45

The repression of unfair competition is directed against acts or practices, in the course of trade or business, that are contrary to honest practices, including, in particular: 46

acts which may cause confusion with the products or services, or the industrial or commercial activities of an enterprise; 47

false allegations which may discredit the products or services, or the industrial or commercial activities of an enterprise; 48

indications or allegations which may mislead the public, in particular as to the manufacturing process of a product or as to the quality, quantity or other characteristics of products or services; 49

acts in respect of unlawful acquisition, disclosure or use of trade secrets; 50

acts causing a dilution or other damage to the distinctive power of another's mark or taking undue advantage of the goodwill or reputation of another's enterprise. 51

E. INTERNATIONAL PROTECTION 52

The laws of a State relating to industrial property are generally concerned only with acts accomplished or committed in the State itself. Consequently, a patent, the registration of a mark or the registration of an industrial design is effective only in the State where the government office effected the grant or the registration. It is not effective in other States. Therefore, if the owner of a patent, a trademark or a design desires protection in several States, such protection must be obtained in each of them separately, (with certain exceptions).

It was in order to guarantee the possibility of obtaining protection in foreign States for their own citizens that, in 1883, eleven States established the International Union for the Protection of Industrial Property by signing the *Paris Convention for the Protection of Industrial Property*.

Since that time, the number of members of the Paris Union has been constantly growing (see list of members). The Convention has been revised several times.

The Paris Convention expressly provides that all or any of the member States may conclude separate, special agreements on particular aspects of industrial property. Such special agreements may not be in conflict with the provisions of the “general” (i.e. Paris) convention.

Eleven special agreements - eight of which are called “Agreements” two of which are called “Treaties” and one of which is called a “Protocol” - have been concluded so far under the aegis of the Paris Union and were in force on January 1, 1996.

The Paris Union and WIPO - which furnishes the secretariat of the Union - pursue the aim of strengthening co-operation among sovereign nations in the field of industrial property. The aim is to ensure that such protection be adequate, easy to obtain, and, once obtained, effectively respected.

Protection of industrial property is not an end in itself: *it is a means to encourage creative activity, industrialisation, investment and honest trade*. All this is designed to contribute to more safety and comfort, less poverty and more beauty, in the lives of men.

Paris Convention for the Protection of Industrial Property (1883) 60
136 States were party to this Convention on January 1, 1996

Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods (1891) 61
31 States were party to this Convention on January 1, 1996

Nairobi Treaty on the Protection of the Olympic Symbol (1981) 62
36 States were party to this Convention on January 1, 1996

Trademark Law Treaty (“TLT”) (1994) 63
Not yet in force. By October 27, 1995, the date until which it was open to signature, it had been signed by 50 States

Patent Co-operation Treaty (“PCT”) (1970) 64
83 States were party to this Convention on January 1, 1996

Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the 65

<i>Purposes of Patent Procedure (1977)</i>	
35 States were party to this Convention on January 1, 1996	
<i>Madrid Agreement Concerning the International Registration of Marks (1891)</i>	66
46 States were party to this Convention on January 1, 1996	
<i>Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989)</i>	67
9 States were party to this Convention on January 1, 1996	
<i>Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958)</i>	68
17 States were party to this Convention on January 1, 1996	
<i>Hague Agreement Concerning the International Deposit of Industrial Designs (1925)</i>	69
25 States were party to this Convention on January 1, 1996	
<i>Strasbourg Agreement Concerning the International Patent Classification (“IPC”) (1971)</i>	70
32 States were party to this Convention on January 11, 1996	
<i>Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of marks (1957)</i>	71
45 States were party to this Convention on January 1, 1996	
<i>Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1973)</i>	72
6 States were party to this Convention on January 1, 1996	
<i>Locarno Agreement Establishing an International Classification for Industrial Designs (1968)</i>	73
24 States were party to this Convention on January 1, 1996	

VI. INTERNATIONAL PROTECTION OF COPYRIGHT AND NEIGHBOURING RIGHTS 74

A. PROTECTED WORKS 75

The subject matter of copyright is usually described as “literary and artistic works,” that is, original creations in the fields of literature and arts. The form in which such works are expressed may be words, symbols, music, pictures, three dimensional objects, or combinations thereof (as in the case of an opera or motion picture). Practically all national copyright laws provide for the protection of the following types of works:

literary works: novels, short stories, poems, dramatic works and any other writings, irrespective of their content (fiction or non-fiction), length, purpose (amusement, education, information, advertisement, propaganda, etc.), form (hand-written, typed, printed; book, pamphlet, single sheets, newspaper, magazine); whether published or unpublished; in most countries computer programs and “oral works,” that is, works not reduced to writing, are also protected by the copyright law;

musical works: whether serious or light; songs, choruses, operas, musicals, operettas; if for

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instruments, whether for one instrument (solos), a few instruments (sonatas, chamber music, etc.) or many (bands, orchestras);

choreographic works; 79

artistic works: whether two-dimensional (drawings, paintings, etchings, lithographs, etc.) or three-dimensional (sculptures, architectural works), irrespective of their content (representational or abstract) and destination (“pure” art, for advertisement, etc.); 80

maps and technical drawings; 81

photographic works: irrespective of the subject matter (portraits, landscapes, current events, etc.) and the purpose for which made; 82

audiovisual works (formerly mainly called “motion pictures” or “cinematographic works”): 83
even where silent, and irrespective of their purpose (theatrical exhibition, television, broadcasting, etc.), their genre (film dramas, documentaries, newsreels, etc.), length, method employed (filming “live,” cartoons, etc.), or technical process used (pictures on transparent film, on electronic videotapes, etc.).

Some copyright laws also provide for the protection of *derivative works (translations, adaptations) and collections (compilations) of works and mere data (data bases)*, collections where they, by reason of the selection and arrangement of the contents, constitute intellectual creations. 84

Many copyright laws also contain provisions for the protection of “*works of applied art*” (artistic jewellery, lamps, wallpaper, furniture, etc.). 85

In certain countries, mainly in countries with common law legal traditions, the notion “*copyright*” 86
has a wider meaning than “*author’s rights*” and, in addition to literary and artistic works, also extends to the producers of sound recordings (phonograms, whether disks or tapes), to the broadcasters of broadcasts and the creators of distinctive *typographical arrangements of publications*.

As regards the number of literary and artistic works created world-wide, it is difficult to make a 87
precise estimate. However, the information available indicates that at present around 1,000,000 books/ titles are published and some 5,000 feature films are produced in a year, and the number of copies of phonograms sold per year presently is more than 3,000 million.

B. RIGHTS RECOGNISED 88

Copyright protection generally means that certain uses of the work are lawful only if they are 89
done with the authorisation of the owner of the copyright. The most typical are the following: the right to *copy or otherwise reproduce* any kind of work; the right to distribute copies to the public; the right to rent copies of at least certain categories of works (such as computer programs and audiovisual works); the right to make sound recordings of the performances of literary and musical works; the right to *perform in public*, particularly musical, dramatic or audiovisual works; the right to communicate to the public by cable or otherwise the performances of such works and particularly, *to broadcast*, by radio, television or other wireless means, any kind of work; the right to *translate* literary works; the right to rent, particularly audiovisual works,

works embodied in phonograms and computer programs; the right *to adapt* any kind of work and particularly the right *to make audiovisual* works thereof.

Under some national laws, some of these rights-which together are referred to as “economic rights” - are not exclusively rights of authorisation but, in certain specific cases, merely rights to remuneration; such is the case, in certain countries and under certain circumstances, for the right to make sound recordings of musical works and the right to broadcast any kinds of works. Some strictly determined uses (for example, quotations, the use of works by way of illustration for teaching, or the use of articles on political or economic matters in other newspapers) are completely free, that is, they require neither the authorisation nor remuneration of the owner of the copyright. 90

In addition to economic rights, authors (whether or not they own the economic rights) enjoy “moral rights” on the basis of which authors have the right to claim their authorship and require that their names be indicated on the copies of the work and in connection with other uses thereof, and they have the right to oppose the mutilation or deformation of their works. 91

The owner of copyright may generally transfer his right or may license certain uses of his work. Moral rights are, however, generally inalienable although their exercise may be waived by the author. 92

C. PROTECTED PERSONS

93

Copyright generally vests in the author of the work. Certain laws provide for exceptions and, for example, regard the employer as the original owner of copyright if the author was, when the work was created, an employee and was employed for the very purpose of creating the work. In the case of certain types of works, particularly audiovisual works, certain national laws provide for different solutions to the question who should be the first owner of copyright in such works. 94

D. ACQUISITION OF COPYRIGHT

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The laws of almost all countries provide that protection is independent of any formalities, that is, copyright protection starts as soon as the work is created. 96

E. DURATION

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Copyright protection is limited in time. Many countries have adopted, as a general rule, a term of protection that starts at the time of the creation of the work and ends 50 years (in some countries, 70 years) after the death of the author. However, in some countries, there are exceptions either for certain kinds of works (e.g., Photographs, audiovisual works) or for certain uses (e.g., translations). 98

F. INTERNATIONAL PROTECTION

99

The laws of a State relating to copyright are generally concerned only with acts accomplished 100

or committed in the State itself. Consequently, they cannot provide for the protection of the State's citizens in another State.

It was in order to guarantee protection in foreign States for their own citizens that, in 1886, ten States established the *International Union for the Protection of Literary and Artistic Works* by signing the *Berne Convention for the Protection of Literary and Artistic Works*. 101

Berne Convention for the Protection of Literary and Artistic Works (1886) 102
117 States were party to this Convention on January 11, 1996.

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961) 103
50 States were party to this Convention on January 30, 1996.

Geneva convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms (1971) 104
53 States were party to this Convention on January 1, 1996

Brussels convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974) 105
19 States were party to this Convention on January 1, 1996

VII. CO-OPERATION WITH DEVELOPING COUNTRIES 106

One of the main tasks of WIPO consists in co-operating with developing countries in their efforts for development as far as intellectual property is concerned. 107

In the field of *industrial property*, the main objectives of WIPO's co-operation with developing countries are: 108

- (i) to encourage and increase, in quantity and importance, the creation of patentable inventions by their own nationals and in their own enterprises, and thereby to enhance their technological self-reliance and their competitiveness in international markets; 109
- (ii) to improve the conditions of acquisition of foreign patentable technology, that is, making those conditions more favourable to them than they are today; 110
- (iii) to increase their competitiveness in international trade through a better protection of the trademarks and service marks of relevance in such trade and through a more effective use of trademarks and service marks in commerce; 111
- (iv) to facilitate their access to the technological information contained in patent documents and its dissemination to potential users of such information. 112

In order to achieve those objectives, most developing countries are in need of enacting or modernising domestic legislation, strengthening governmental institutions, acceding to international treaties, having more specialists in government, in industry and in the legal professions, and having better access to patent documents and making better use of the contents of such documents. 113

WIPO's co-operation consists mainly of advice, training and the furnishing of documents and equipment. The advice is given by the staff of WIPO and experts chosen by WIPO, or it is 114

given through international meetings organised by WIPO. The training is individual (on-the-job, study visits) or collective (courses, seminars, workshops); each may take place in the interested developing country itself or in another country, industrialised or developing.

The resources for such activities are provided in the budget of WIPO or donor countries - industrialised or developing - or organisations, including the United Nations Development Programme (UNDP) and European Patent Office (EPO). Resources are also provided by developing countries themselves, either from their own national budgets or from loans made available by international financing institutions. The activities are, as much as possible, part of a “project” or plan of several years’ duration, which is worked out at the request of and jointly with either the government of a given developing country (“country project”) or the governments or joint institutions of a region (“regional project”). These “development co-operation” activities are under the institutionalised review of the *WIPO Permanent Committee for Development Co-operation Related to Industrial Property*, membership in which is voluntary and carries no financial obligations with it. On January 1, 1996, 116 States were members of the Permanent Committee. 115

In the field of *copyright*, the main objectives of WIPO’s co-operation with developing countries are: 116

(i) to encourage and increase the creation of literary and artistic works by their own nationals and thereby to maintain their national culture in their own languages and/ or correspondingly to their own ethnic and social traditions and aspirations; 117

(ii) to improve the conditions of acquisition of the right to use the literary and artistic works in which copyright is owned by foreigners, that is, making those conditions more favourable to them than they are today. 118

In order to achieve those objectives, most developing countries need to create or modernise domestic legislation and institutions, to accede to international treaties and to have more specialists, all in the field of copyright. 119

WIPO’s co-operation consists mainly of advice and training. The advice is given by the staff of WIPO and experts chosen by WIPO, or it is given through international meetings called by WIPO. The training is individual (on-the-job) or collective (courses, seminars, workshops); each may take place in their interested developing country itself or in another country, industrialised or developing. The resources for such activities are, for the most part, provided in the budget of WIPO and, to a lesser extent, come from a few countries, mainly industrialised, but also developing countries, as well as from UNDP and semi-governmental or non-governmental organisations. 120

These development co-operation activities - which extend also to neighbouring rights - are kept under review by the *WIPO Permanent Committee for Development Co-operation Related to Copyright and Neighbouring Rights*, membership in which is voluntary and carries no financial obligations with it. On January 1, 1996, 106 States were members of the said Permanent Committee. 121

A further contribution of WIPO to co-operation with developing countries, the WIPO Academy, 122

was created in 1993. Its objective is to conduct encounter sessions on current intellectual property issues, at the policy level, for middle to senior government officials from developing countries. The sessions are organised according to linguistic criteria. The aim of each session is to present current issues in such a way as to highlight the policy considerations behind them and thereby enable the participants in the Academy, on their return to their countries, to better formulate appropriate policies for their governments.

WIPO's various training activities provide information and advice not only on the multilateral treaties administered by itself but also on the *WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPPS)*. 123

VIII. WIPO ARBITRATION CENTER 124

The WIPO Arbitration Center was established in 1994. It offers services for the resolution of international commercial disputes between private parties involving intellectual property. This Center is part of the International Bureau of WIPO. It administers the following dispute-resolution procedures: 125

Mediation: non-binding procedure in which a neutral intermediary, the mediator, assists the parties to a dispute in reaching a mutually satisfactory, agreed settlement of the dispute. 126

Arbitration: a procedure in which the dispute is submitted to an arbitrator or to a tribunal of several arbitrators who make a decision (an "award") on the dispute, which decision is binding on the parties. 127

Expedited arbitration: a form of arbitration in which the arbitration procedure is conducted and the award is rendered in a particularly short time and at reduced cost. 128

Mediation followed, in the absence of settlement, by arbitration: a procedure which combines, sequentially, mediation and, where the dispute is not settled through the mediation within a period of time agreed in advance by the parties, arbitration. 129

Each of the procedures is open to any person or entity, regardless of their nationality or domicile. The procedures are conducted pursuant to Rules established by the International Bureau designed for use in any legal system in the world. The procedures may be held anywhere in the world. 130

The dispute-resolution procedures administered by the Center offer saving of time and cost; autonomy for the parties in choosing the applicable law, procedure and language of the proceedings; neutrality in relation to the law, language and institutional culture of the parties; the possibility of ensuring that specialised expertise is represented on the arbitral tribunal or in the person of the mediator; strict confidentiality; a single procedure (as opposed to several court actions in different countries), which, in the case of arbitration, produces a result that is final and enforceable internationally; rules that accommodate the specific characteristics of intellectual property disputes. 131

Disputes can be referred to a procedure administered by the Center in two ways: by a clause in a contract providing for the reference of all possible future disputes under that contract, or by a submission agreement providing for the reference of an existing dispute. Model contract 132

clauses and submission agreements are available from the Center. The Center also offers a Submission Advisory Service whereby it will, at the request of a party to a dispute, offer to convene a meeting between the parties to the dispute for the purpose of discussing the possibility of submitting the dispute to a procedure administered by the Center. It will, if so desired by the parties, assist in the drafting of a submission agreement between the parties.

The Center is prepared to act as appointing authority or administrator in arbitrations involving intellectual property, conducted under the *Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL)*. 133

The Center maintains lists of mediators and arbitrators and comprehensive details of the qualifications, experience and areas of specialisation of each of the persons listed. On January 1, 1996 the list comprised some 530 persons from 52 countries. The number of persons on the list is constantly increasing, as an effort is made to add new names to it. 134

Fees are payable to the Center in respect of each procedure and to the mediator or arbitrator, according to a Schedule of Fees available from the Center. Both types of fees are calculated on the basis of the amount in dispute. 135

The Center is counselled in the discharge of its functions by two bodies: the *WIPO Arbitration Council* which gives advice on matters of planning and policy and the *WIPO Arbitration consultative Commission* which provides opinions and advice on non-routine issues on which the Center is required to take a decision in the course of the administration of an arbitration, such as the challenge of an arbitrator. Each body is composed of eminent specialists in the areas of international arbitration and intellectual property. The WIPO Arbitration Council has six members, each from a different country, while the WIPO Arbitration Consultative Commission has 39 members from 26 countries. 136

IX. OTHER ACTIVITIES 137

WIPO-WTO Co-operation. On January 1, 1996, an Agreement Between the World Intellectual Property Organisation and the World Trade Organisation entered into force. This Agreement covers several areas of co-operation between WIPO and the WTO concerning the implementation of the *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)* of the WTA, namely notification of laws and regulations, communication of emblems of States and international intergovernmental organisations under the Article 6ter of the Paris Convention, as well as legal-technical assistance and technical co-operation in favour of developing countries relating to the implementation of the TRIPS Agreement. 138

Revision of Treaties. In order to adapt the treaties administered by WIPO to changing circumstances and needs a constant watch is kept on them to see whether they need to be revised. If they or their implementing regulations seem to be in need of revision, they are submitted, after adequate preparation, to those intergovernmental bodies which are competent to decide revisions. In 1996, work in progress on preparations for the possible revision of the Hague Agreement. 139

Revision of Classifications. The International Patent Classification, the International Classification of Goods and Services for the Purposes of the Registration of Marks and the International 140

Classification for Industrial Designs are under constant scrutiny both by intergovernmental committees and by the International Bureau to keep them up to date and to improve them in other respects as well.

Other Matters of Topical Interest. WIPO is observing all changes in international industrial, trade and cultural relations which seem to call for adaptations of the treaties administered by WIPO or the conclusion of new treaties and changes in national laws, regional arrangements, contractual practices and professional activities, in the field of intellectual property. 141

Thus, in the field of industrial property, WIPO is, in 1996, engaged, for example, in preparations for the adoption of a Patent Law Treaty (PLT), which would aim at harmonising patent laws by establishing, at least in the field of formalities, norms not provided for in the Paris Convention, and in a study on the protection of well-known marks. It is also engaged in providing for further improvements in the Regulations under the PCT. 142

In the field of copyright and certain neighbouring rights, WIPO is engaged in the preparation of a Protocol on the Berne Convention, to update international copyright norms in view of the emergence of certain new technologies, particularly digital technology. It is also engaged in the preparation of a new treaty on the protection of the rights of performers and producers of phonograms. 143

WIPO is also engaged in preparing a treaty on the settlement of intellectual property disputes between States. 144

WIPO Permanent Committee on Industrial Property Information. The objectives of this Committee are to encourage and institute, within the framework of WIPO, close co-operation among States, particularly the national and regional patent offices of such States, in all matters concerning industrial property information, including the following: the presentation of the content of industrial property documents; the codes for designating and identifying bibliographic data in industrial property documents; systems and methods for indexing, classifying and coding patent documents in order to make them more easily accessible for the purpose of search and examination of applications and for the purposes of information sought by inventors, research and development institutions, industry, governments and the general public; extraction, storage, and retrieval of bibliographic data of patent documents, particularly with the help of computers; making informative abstracts of patent documents; the establishment of reports on the state of the art or on technological trends. At present, the major efforts of this Permanent Committee are devoted to promoting the adoption, by patent offices, other public institutions and private enterprises of such electronic systems for the storage of full texts including drawings in patent documents, and such systems for the searching of the stored material which, even if not the same, allow mutual access and mutual searchability among all the said systems. The members of this Permanent Committee are the States members of the PCT Union, the States members of the IPC Union and the other States, members of the Paris Union, which have expressed the desire to become members. On January 1, 1996, 107 States were members of this Permanent Committee, as well as the African Intellectual Property Organisation, the African Regional Industrial Property Organisation, the Benelux Trademark and Designs Offices and the European Patent Organisation. 145

X. THE INTERNATIONAL BUREAU OF WIPO 146

A. STRUCTURE 147

The International Bureau is the secretariat of the World Intellectual Property Organisation (WIPO) and of the “Unions” (that is, associations of States) created by the Paris Convention, the Berne Convention and the special agreement (namely, the Patent Co-operation Treaty (PCT), the Madrid Agreement (Marks), the Madrid Protocol, the Lisbon Agreement, the Hague Agreement, the Strasbourg (International Patent Classification (IPC)) Agreement, the Nice Agreement, the Locarno Agreement, the Vienna Agreement and the Budapest Treaty). 148

The International Bureau is controlled by the member States assembled, as far as WIPO is concerned, in a *General Assembly*, and, as far as the Paris, Berne and the other Unions are concerned, in the separate *Assembly* of each Union. 149

The International Bureau is headed by the Director General. Its regular staff comprised, on January 1, 1996, 513 persons, nationals of 64 different countries. Their status is similar to that of the staff of the other specialised agencies of the United Nations system of organisations. 150

B. FUNCTIONS 151

The International Bureau is the *secretariat* of the various governing bodies of WIPO and the Unions. As such, it prepares the meetings of those bodies, mainly through the provision of reports and working documents. It organises the meetings themselves. After the meetings, it ensures that the decisions of the meetings are communicated to all concerned and, insofar as the decisions relate to the International Bureau, that they are carried out. 152

The International Bureau, through appropriate contacts with and under the supervision of the competent governing bodies of WIPO and the Unions, initiates *new projects* and carries out *existing projects*, for the promotion of increased international co-operation among member States in the field of intellectual property. 153

The International Bureau centralises *information* of various kinds relating to the protection of intellectual property. Some of the information is furnished direct to member States at their request. Much of the information is collated and published in a monthly review in English and French, and, every second month, in Spanish, entitled *Industrial Property and Copyright, La Propriet industrielle et le Droit d’auteur, Propiedad Industrial y Derecho de Autor*, respectively. This review contains information on membership in WIPO and the various Unions and on the activities of WIPO in various fields. It also contains the texts of industrial property and copyright and neighbouring rights laws and treaties (in English and French only). 154

The Director General is the *depository* of the treaties administered by WIPO. Certified copies of these treaties can be obtained, on request, from the International Bureau. 155

The International Bureau maintains *four international registration services* in the fields of patents, trademarks, industrial designs and appellations of origin, respectively. 156

(1) The PCT Service is in existence since June 1, 1978. It acts as a receiving Office for the filing of international applications; it keeps in its files the authentic copies of all international applications; it publishes all such applications in printed pamphlets on CD-ROMs; it issues the *PCT* 157

Gazette (in English and French) every week and issues the loose-leaf collection *PCT Applicant's Guide* (in English, French and German) periodically; it ensures contacts with applicants or prospective applicants filing international applications, the national or regional patent offices with which the international applications are filed and to which they are ultimately directed, and the international authorities which effect the international search or international preliminary examination; finally, the International Bureau prepares and services the meetings of those intergovernmental committees which secure the effective co-operation and co-ordination of the said patent offices and international authorities in the application of the PCT.

Since June 1, 1978, and up to December 31, 1995, the International Bureau has received and processed 246,622, international patent applications. *

(2) The Service for the International Registration of Trademarks has been in existence since January 1, 1893. *

This Service publishes an official periodical bulletin, *Les Marques internationales*, containing information on all newly registered trademarks, renewals and changes in earlier registrations, such as assignments, cancellations and limitations of goods and services under the Madrid system. The bibliographic data and figurative elements of all international registrations in force are also published on CD-ROM. N request, the Service issues extracts from the International Register of Marks.

(3) The Service of the International Deposit of Industrial Designs has been in existence since June 1, 1928. *

The Service issues a monthly bulletin, the *International Designs Bulletin/ Bulletin des dessins et modlrd internationaux* (in English and French), in which are published all new deposits and any changes in earlier deposits.

(4) The Service for the International Registration of Appellations of Origin has functioned since September 25, 1966. *

This Service issues a bulletin, *Les Appellations d'origine* (in French), whenever new registrations are effected.

C. RESOURCES

The principal sources of income of the regular budget of the International Bureau are fees paid by the private users of the international registration services and contributions paid by the governments of the member States.

Fees represent 80%, whereas contributions represent 14%, of the total income of WIPO. The remaining 6% comes from the sale of WIPO publications and interest earnings.

The amounts of the fees are fixed by the Assemblies of the PCT, Madrid and Hague Unions.

The amounts of the contributions are fixed by the Conference of WIPO and the Assemblies of the six contribution-financed Unions, namely, the Paris, Berne, IPC, Nice, Locarno and Vienna Unions.

Contributions are payable - under what is called a "class and unit" system - by each member

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