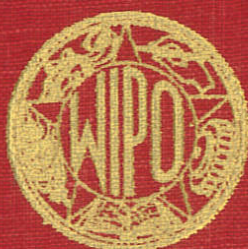


**INDUSTRIAL DESIGNS
INTERNATIONAL CLASSIFICATION**

**RECORDS
OF THE LOCARNO CONFERENCE**

1968



GENEVA

**RECORDS
OF THE
LOCARNO CONFERENCE**

**WORLD INTELLECTUAL
PROPERTY ORGANIZATION
(WIPO)**

**RECORDS
OF THE
LOCARNO CONFERENCE**

**for the Purpose of Setting Up
an International Classification
for Industrial Designs
(October 2 to 8, 1968)**



GENEVA

1972

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EDITOR'S NOTE

These *Records* of the Locarno Conference for the Purpose of Setting Up an International Classification for Industrial Designs (1968) contain all the official documents relating to the Conference.

By "official documents" is meant the circular letters of invitation to the Conference and the documents relating to the organization of the Conference and to the text of the Agreement which were distributed before and during the Conference by the United International Bureaux for the Protection of Intellectual Property (BIRPI), either in the capacity of organizer or in the capacity of Secretariat of the Conference.

The texts of the circular letters of invitation sent either by the Government of Switzerland or by BIRPI, and the list of the States and Organizations invited, are published under the heading "Invitations to the Conference."

The documents distributed before the Conference are grouped in these *Records* under the heading "Documents relating to the organization of the Conference", and partially under the heading "Documents relating to the text of the Agreement." This last heading also covers proposed amendments to the Draft Agreement and the proposed Draft Agreement for the Drafting Committee, which were distributed during the Conference.

The *Records* also reproduce the observations of Governments and International Organizations on the Draft Agreement and the proposed amendments to the Draft Agreement presented in alphabetical order of States and Organizations during the Conference. The date, original languages and numbers of documents are indicated in subtitles, in parentheses.

With the exception of certain proposed amendments to the Draft Agreement and to the proposed Draft Agreement prepared for the Drafting Committee, these *Records* reproduce the following documents : the summary minutes, the revised and corrected texts of the report of the Credentials Committee and of the General Report, the signed text of the Agreement with the Annex containing the list of classes and subclasses of the International Classification and the Resolution adopted by the Conference.

The summary minutes were prepared during the Conference ; the interventions made in English were summarized in English and those made in French were summarized in French. Interventions made in Spanish were summarized either in English or in French, according to the minute writer. During the Conference, the minutes were distributed to the participants who were able to submit corrections to the Secretariat. Thus, the minutes reproduced here differ in two respects from the minutes distributed during the Conference : they incorporate any correction suggested by any participant in 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 BIRPI.

A report on the work of the Credentials Committee and a report on the work of the General Committee were prepared during the Conference, the first by a member of one of the delegations designated for the Credentials Committee, and the second by the Rapporteur General. These reports were discussed and approved by the competent organs of the Conference.

The Locarno 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*, separately.

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 all 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, 1972

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**INVITATIONS
TO THE CONFERENCE**

INVITATIONS TO THE CONFERENCE SENT BY THE GOVERNMENT OF SWITZERLAND

CIRCULAR LETTER OF INVITATION

Sent
to States Members of the Paris Union

Salutations

The Diplomatic Conference convened in The Hague in 1960 for the revision of the Hague Agreement concerning the International Deposit of Industrial Designs decided to set up an International Design Committee, whose task would be "to establish the International Design Classification" (Article 21(2) of the Agreement as revised) ; it also adopted a Resolution, dated November 28, 1960, setting up a Committee of Experts "for the Preparation of a Draft International Classification," pending the entry into force of the revised Agreement, which would enable the International Design Committee to be convened.

The Committee of Experts in question was to be composed of representatives not only of the signatory States of the revised Hague Agreement but also, in the capacity of observers, of States members of the Paris Union.

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) convened the Committee in October 1964 to discuss the question.

The Committee submitted a Draft International Classification consisting of 32 classes divided into subclasses. At the same time, it expressed the wish that the draft be "brought to the notice of all member countries of the Paris Union, and that they be invited to give their opinions on it." This was done in May 1965.

Document DM/32/3, prepared by BIRPI, contained the Draft Classification adopted in October 1964 and a record of the observations and proposals for amendments received from member States of the Union.

The Committee of Experts met a second time in Geneva in May 1966 and, by a majority vote, expressed the opinion that it would be desirable for the Director of BIRPI to propose to the Executive Committee of the Conference of Representatives of the Paris Union that the latter should envisage the preparation of a Diplomatic Conference whose task would be to establish an Agreement and a Special Union with a view to providing the International Classification with a framework in which to become a reality.

At the Meeting of the Executive Committee of the Paris Union, held in September 1966, the Director of BIRPI stated that he, and the majority of the members of the Committee of Experts which had studied it at the meeting held in May 1966, considered that the only effective means of establishing an international classification in the field in question was to conclude a Special Agreement similar to the Nice Agreement which dealt with the classification for marks. Such an Agreement would have to be adopted by a Conference.

After an exhaustive discussion, the Committee considered that it was desirable to convene the members of the Paris Union to a Diplomatic Conference with a view to the adoption of a treaty, and to ask the Swiss Government to act as host to that Conference.

Consequently, the Swiss Embassy has the honor to invite, the Government of . . . , on behalf of the Swiss Federal Council to send representatives to the Diplomatic Conference on a Convention concerning a classification for industrial designs, which will be held in Locarno from October 2 to 8, 1968.

The Embassy would be obliged if the Ministry would confirm as soon as possible the participation of the Government of . . . and inform it of the number of persons who will be members of its Delegation.

In order to facilitate the preparation of the Conference, the Embassy wishes to draw the attention of the Ministry to the importance of informing it, at the earliest possible moment, of the composition of the . . . Delegation. To this end, the Embassy is sending the Ministry a form, with the request that it be returned before June 1, 1968, showing the names and functions of the participants mentioned.

Finally, it should be noted that the Delegation of the Government of . . . must be duly accredited, in order to participate in the work of the Conference, by an instrument bearing the signature of the Head of State, the Head of the Government or the Minister for Foreign Affairs, and must be in possession of full powers for the signature of the Final Acts of the Conference.

Compliments.

STATES MEMBERS OF THE PARIS UNION

Invited

Algeria	Indonesia	Philippines
Argentina	Iran	Poland
Australia	Ireland	Portugal
Austria	Israel	Republic of Viet-Nam
Belgium	Italy	Romania
Brazil	Ivory Coast	San Marino
Bulgaria	Japan	Senegal
Cameroon	Kenya	South Africa
Canada	Laos	Soviet Union
Central African Republic	Lebanon	Spain
Ceylon	Liechtenstein	Sweden
Chad	Luxembourg	Switzerland
Cuba	Madagascar	Syriem 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*
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
Iceland		

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

CIRCULAR LETTER OF INVITATION

Sent to States not Members of the Paris Union

Salutations

Pursuant to a Resolution adopted on November 28, 1960, by the Hague Diplomatic Conference (1960) for the revision of the Hague Agreement Concerning the International Deposit of Industrial Designs, the Executive Committee of the Paris Union for the Protection of Industrial Property decided, at its session in September 1966, to convene the States members of that Union to a Diplomatic Conference for the adoption of a Convention concerning a classification for industrial designs. On that occasion, the Executive Committee asked the Swiss Government to act as host to the Conference, and the latter accepted.

In response to the wish expressed by the United International Bureaux for the Protection of Intellectual Property (BIRPI) that States not members of the Paris Union might be represented by observers at the Conference, the Federal Council also agreed to invite, in the capacity of observers, States not members of the Paris Union which had been invited to take part in the Stockholm Intellectual Property Conference in 1967.

Consequently, the Swiss Embassy has the honor to invite the Government of . . . , on behalf of the Federal Council, to be represented by *observers* at the Diplomatic Conference for the adoption of a Convention concerning a classification for industrial designs, which will be held in Locarno from October 2 to 8, 1968.

In order to facilitate the preparation of the Conference, the Swiss Embassy wishes to draw the attention of the Ministry to the importance of informing it, as soon as possible, of the names and functions of the person or persons who will represent To this end, the Embassy is sending the Ministry a form with the request that it be returned, duly completed, before June 1, 1968.

The communication concerning this Conference will shortly be sent directly to the Government of . . . by the Director of BIRPI.

Compliments.

STATES NOT MEMBERS OF THE PARIS UNION

Invited in the Capacity of Observers

Afghanistan	Ecuador	Kuwait	Peru
Albania	El Salvador	Lesotho	Republic of Korea
Barbados	Ethiopia	Liberia	Rwanda
Bolivia	Gambia	Libya	Saudi Arabia
Botswana	Ghana	Malaysia	Sierra Leone
Burma	Guatemala	Maldives	Singapore
Burundi	Guinea	Mali	Somalia
Byelorussian SSR	Guyana	Mongolia	Sudan
Cambodia*	Honduras	Nepal	Thailand
Chile	India	Nicaragua	Ukrainian SSR
Colombia	Iraq	Pakistan	Venezuela
Congo**	Jamaica	Panama	Western Samoa
Costa Rica	Jordan	Paraguay	

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

** This State has since changed its name ; at the time of publication of these *Records* it is designated as "Zair."

CIRCULAR LETTER OF INVITATION

Sent to Intergovernmental Organizations

Salutations

The Diplomatic Conference convened in The Hague in 1960 for the revision of the Hague Agreement Concerning the International Deposit of Industrial Designs decided to set up an International Design Committee, whose task would be "to establish the International Design Classification" (Article 21(2) of the Agreement as revised); it also adopted a Resolution, dated November 28, 1960, setting up a Committee of Experts "for the Preparation of a Draft International Classification," pending the entry into force of the revised Agreement, which would enable the International Design Committee to be convened.

The Committee of Experts in question was to be composed of representatives not only of the signatory States of the revised Hague Agreement but also, in the capacity of observers, of States members of the Paris Union.

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) convened the Committee in October 1964 to discuss the question.

The Committee submitted a Draft International Classification consisting of 32 classes divided into subclasses. At the same time, it expressed the wish that the draft be "brought to the notice of all member countries of the Paris Union, and that they be invited to give their opinions on it." This was done in May 1965.

Document DM/32/3, prepared by BIRPI, contained the Draft Classification adopted in October 1964 and a record of the observations and proposals for amendments received from member States of the Union.

The Committee of Experts met a second time in Geneva in May 1966 and, by a majority vote, expressed the opinion that it would be desirable for the Director of BIRPI to propose to the Executive Committee of the Conference of Representatives of the Paris Union that the latter should envisage the preparation of a Diplomatic Conference whose task would be to establish an Agreement and a Special Union with a view to providing the International Classification with a framework in which to become a reality.

At the meeting of the Executive Committee of the Paris Union, held in September 1966, the Director of BIRPI stated that he, and the majority of the members of the Committee of Experts which had studied it at the meeting held in May 1966, considered that the only effective means of establishing an international classification in the field in question was to conclude a Special Agreement similar to the Nice Agreement which dealt with the classification for marks. Such an Agreement would have to be adopted by a Conference.

After an exhaustive discussion, the Committee considered that it was desirable to convene the members of the Paris Union to a Diplomatic Conference with a view to the adoption of a treaty, and to ask the Swiss Government to act as host to that Conference.

Consequently, the ... of Switzerland to the ... has the honor to invite ..., on behalf of the Swiss Federal Council, to be represented by observers at the Diplomatic Conference for the adoption of a Convention concerning a classification for industrial designs, which will be held in Locarno from October 2 to 8, 1968.

In order to facilitate the preparation of the Conference, the ... of Switzerland wishes to draw the attention of ... to the importance of informing it, as soon as possible, of the names and functions of the person or persons who will represent To this end, the ... of Switzerland is sending the Ministry a form with the request that it be returned, duly completed, before June 1, 1968.

Compliments.

INTERGOVERNMENTAL ORGANIZATIONS

Invited in the Capacity of Observers

Council of Europe
United Nations Educational, Scientific and Cultural Organization (UNESCO)
United Nations

**INVITATIONS TO THE CONFERENCE
SENT BY THE UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY (BIRPI)**

**CIRCULAR LETTER OF INVITATION
Sent to International Non-Governmental Organizations**

Salutations

By letter dated November 10, 1967, I informed you that the Government of the Swiss Confederation had kindly agreed to convene, from October 2 to 8, 1968, a Diplomatic Conference for the adoption of a multilateral treaty establishing an international classification for industrial designs. That treaty would take the form of a Special Agreement concluded within the framework of the Paris Union for the Protection of Industrial Property.

In agreement with the Swiss Government, I have the honor to invite your Organization to be represented at this Conference by one or more observers.

I should be grateful to receive your reply as soon as possible. I should also be obliged if you would inform me of the names of the observer or observers designated by you, in order that I may communicate them to the Swiss Government.

Document L/1, which is intended to serve as a basis for the work of the Locarno Conference, has already been sent to you. You will shortly receive a detailed communication concerning the organization of the Conference and the draft Rules of Procedure.

Compliments.

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

Committee of National Institutes of Patent Agents (CNIPA)

Inter-American Association of Industrial Property (ASIPI)

International Association for the Protection of Industrial Property (AIPPI)

International Chamber of Commerce (ICC)

International Federation of Patent Agents

International League Against Unfair Competition (LICCD)

International Literary and Artistic Association (ALAI)

Union of European Patent Agents

PARTICIPANTS
IN THE CONFERENCE

STATES MEMBERS OF THE PARIS UNION

ALGERIA

Head of Delegation

Mohamed LAALA, Second Secretary, Permanent Mission of the Democratic and Popular Republic of Algeria, Geneva.

Member of Delegation

Farida AIT DJEBBARA (Mrs.), Head of the Trademarks and Designs Service, National Industrial Property Office, Algiers.

ARGENTINA

Head of Delegation

Luis LAURELLI, Secretary of Embassy, Permanent Mission of the Republic of Argentina, Geneva.

AUSTRIA

Head of Delegation

Gottfried THALER, President, Austrian Patent Office, Vienna.

Member of Delegation

Thomas LORENZ, Counsellor, Federal Ministry of Commerce, Handicrafts and Industry, Vienna.

BELGIUM

Head of Delegation

Arthur SCHURMANS, Director, Industrial and Commercial Property Service, Ministry of Economic Affairs, Brussels.

Member of Delegation

Jacques D. P. DEGAVRE, Administrative Secretary, Industrial and Commercial Property Service, Ministry of Economic Affairs, Brussels.

BRAZIL

Head of Delegation

Adalberto MONTEIRO MORGADO, National Industrial Property Department, Ministry of Industry and Commerce, Rio de Janeiro.

Members of Delegation

Mauro F. COUTINHO CAMARINHA, National Industrial Property Department, Ministry of Industry and Commerce, Rio de Janeiro.

Jorge Carlos RIBEIRO, Secretary of Embassy, Permanent Mission of Brazil, Geneva.

CUBA

Head of Delegation

Frank ORTIZ RODRIGUEZ, First Secretary, Permanent Mission of Cuba, Geneva.

CZECHOSLOVAKIA

Head of Delegation

František KŘÍSTEK, Chairman of the Office for Patents and Inventions, Prague.

Members of Delegation

Miloslav ŠPUNDA, Head of the Trademarks and Designs Department, Office for Patents and Inventions, Prague.

Josef CONK, Legal Counsellor, Office for Patents and Inventions, Prague.

DENMARK

Head of Delegation

Erik TUXEN, Director, Patent and Trademark Office, Copenhagen.

Members of Delegation

Julie OLSEN (Miss), Head of Department, Patent and Trademark Office, Copenhagen.

Rigmor CARLSEN (Mrs.), Deputy Head of Department, Patent and Trademark Office, Copenhagen.

FINLAND

Head of Delegation

Erkki TUULI, Director General, Office for Patents and Trademarks Registration, Helsinki.

Members of Delegation

Berndt A. F. GODENHJELM, Professor of Law at the University of Helsinki, Helsinki.

Eero YRJÖLÄ, First Secretary of Embassy, Embassy of Finland, Berne.

FRANCE

Head of Delegation

Roger LABRY, Counsellor of Embassy, Director of Economic and Financial Affairs, Ministry of Foreign Affairs, Paris.

Member of Delegation

Maurice BIERRY, Administrateur Civil, Ministry of Industry, Paris.

GERMANY (FEDERAL REPUBLIC)

Head of Delegation

Rupprecht von KELLER, Ambassador, Permanent Delegation of the Federal Republic of Germany, Geneva.

Members of Delegation

Gerhard SCHNEIDER, Ministerialrat, Federal Ministry for Justice, Bonn.

Peter SCHÖNFELD, First Secretary, Permanent Delegation of the Federal Republic of Germany, Geneva.

HOLY SEE*Head of Delegation*

Reverend Father Henri Maurice de RIEDMATTEN, Permanent Observer of the Holy See, Geneva.

HUNGARY*Head of Delegation*

Emil TASNÁDI, President, National Office for Inventions Budapest.

Members of Delegation

Ivan SZÁSZ, Head of Department, Ministry of Foreign Trade, Budapest.

Gyula PUSZTAI, Head of Section, National Office for Inventions, Budapest.

János FODOR, Ministry of Foreign Affairs, Budapest.

IRAN*Head of Delegation*

Mehdi NARAGHI, Director, Office for the Registration of Companies and Industrial Property, Teheran.

Member of Delegation

Ebrahim DJAHANNEMA, Second Secretary, Permanent Mission of Iran, Geneva.

IRELAND*Head of Delegation*

Michael J. QUINN, Controller of Patents, Designs and Trade Marks, Ministry of Industry and Commerce, Dublin.

ITALY*Head of Delegation*

G. RANZI, Director General, Head, Central Patent Office, Ministry of Industry, Handicrafts and Commerce, Rome.

Members of Delegation

Gino GALTIERI, Inspector General, Head, Literary, Artistic and Scientific Property Office, Presidency of the Council of Ministers, Rome.

Girolama PIZZINI (Mrs.), Director of Division, Head, Designs Service, Central Patent Office, Ministry of Industry, Handicrafts and Commerce, Rome.

Giuseppe TROTTA, Legal Counsellor, Legal Advisor of the Delegation for the Intellectual Property Agreements, Ministry of Foreign Affairs, Rome.

Valerio de SANCTIS, Attorney, Member of Copyright Consulting Committee, Presidency of the Council of Ministers, Rome.

KENYA*Head of Delegation*

David J. COWARD, C. M. G., Registrar-General, State Law Office, Nairobi.

LIECHTENSTEIN*Head of Delegation*

Marianne MARXER (Miss), Third Secretary, Legation of Liechtenstein, Berne.

LUXEMBOURG*Head of Delegation*

Jean-Pierre HOFFMANN, Head, Industrial Property Service, Luxembourg.

MONACO*Head of Delegation*

Piero BENEDECK, Consul of Monaco, Lugano.

Member of Delegation

Jean-Marie NOTARI, Director, Industrial, Literary and Artistic Property Department, Monaco.

NETHERLANDS*Head of Delegation*

Willem M. J. C. PHAF, Director, Department of Legislative and Legal Affairs, Ministry of Economic Affairs, The Hague.

Member of Delegation

Enno VAN WEEL, Vice-President, Patent Council, The Hague.

NORWAY*Head of Delegation*

Road RøED, Head of Section, Office for the Protection of Industrial Property, Oslo.

POLAND*Head of Delegation*

Jozef CIESIELSKI, Director of Cabinet, Patent Office, Warsaw.

Members of Delegation

Camilla MATLASZEK (Mrs.), Head of Service, Ministry of Foreign Affairs, Warsaw.

Jan DALEWSKI, Head of Legal Section, Patent Office, Warsaw.

PORTUGAL*Head of Delegation*

Adriano de CARVALHO, Deputy Director General for Economic Affairs, Ministry of Foreign Affairs, Lisbon.

Members of Delegation

Jorge VAN ZELLER GARIN, Assistant to the General Directorate of Commerce, Lisbon.

José MOTA MAIA, Industrial Property Department, Lisbon.

SOVIET UNION*Head of Delegation*

Victor TSAREGORODTSEV, Vice-President, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.

Members of Delegation

Igor TCHERVIAKOV, Deputy Director, Central Scientific Institute for Information on Patents and Technico-Economic Research, Moscow.

Yury KULAKOV, Chief, Trademarks and Designs Department, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.

SPAIN

Head of Delegation

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

Members of Delegation

Julio ESCUDERO DURAN, Head, Designs Section, Industrial Property Office, Ministry of Industry, Madrid.
J. L. XIFRA, First Secretary of Embassy, Permanent Mission of Spain, Geneva.

SWEDEN

Head of Delegation

Claës UGGLA, Legal Advisor, Royal Patent and Registration Office, Stockholm.

Member of Delegation

Bengt LUNDBERG, Head of Section, Royal Patent and Registration Office, Stockholm.

SWITZERLAND

Head of Delegation

Joseph VOYAME, Director, Federal Bureau of Intellectual Property, Berne.

Members of Delegation

Walter STAMM, Head of Section, Federal Bureau of Intellectual Property, Berne.
André COIGNY, Diplomatic Assistant, Federal Political Department, Berne.
Paul RUEDIN, Consular Official, Federal Political Department, Bern.
Pierre Jean POINTET, Professor at the University of Neuchâtel, Zurich.

TUNISIA

Head of Delegation

J. Bachemi BEN SLIMANE, Directorate of Industry, Tunis.

UNITED ARAB REPUBLIC*

Head of Delegation

Hassan SHASH, Embassy of the United Arab Republic, Berne.

UNITED STATES OF AMERICA

Head of Delegation

Gerald D. O'BRIEN, Assistant Commissioner of Patents, Department of Commerce, Washington.

Member of Delegation

Harvey J. WINTER, Assistant Chief, Business Practices Division, Department of State, Washington.

URUGUAY

Head of Delegation

Mateo I. MAGARIÑOS DE MELLO, Ambassador, Embassy of Uruguay, Berne.

Member of Delegation

Perla BERTANI (Mrs.), Counsellor of Embassy, Embassy of Uruguay, Berne.

YUGOSLAVIA

Head of Delegation

Zoltan BIRO, Judge at the Supreme Economic Court Belgrade.

Member of Delegation

Nenad JANKOVIĆ, Legal Advisor, Federal Patent Office, Belgrade.

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

*
* *
*

At the opening of the Conference, Mr. V. Tsaregorodtsev, Head of the Delegation of the Soviet Union, transmitted the following letter to the Chairman of the Conference :

Salutations

"On behalf of the Soviet Delegation I have the honor to make the following statement :

The Delegation of the Union of the Soviet Socialist Republics considers that it is necessary to invite the German Democratic Republic—as a party of the Paris Convention for the Protection of Industrial Property—to take part in the Locarno Diplomatic Conference on the International Classification for Industrial Designs.

The fact of not inviting the German Democratic Republic is a gross violation of the principles of the Paris Convention and of the general provisions of international law.

I request, Mr. Chairman, that this letter be included in the Minutes of the Conference."

Compliments.

STATES NOT MEMBERS OF THE PARIS UNION

Participating in the Capacity of Observers

CONGO*

Head of Delegation

Gustave MULENDA, First Secretary, Permanent Mission of the Democratic Republic of the Congo, Geneva.

GHANA

Head of Delegation

Benjamin W. PRAH, Registrar-General, Registrar-General's Department, Accra.

NICARAGUA

Head of Delegation

Antonio A. MULLHAUPT, Consul of Nicaragua, Geneva.

PAKISTAN

Head of Delegation

Gul HANEEF, Embassy of Pakistan, Berne

REPUBLIC OF KOREA

Head of Delegation

Tak C. HAN, Second Secretary, Permanent Delegation of the Republic of Korea, Geneva.

THAILAND

Head of Delegation

Birath ISRASENA, First Secretary, Royal Thai Embassy, Berne.

VENEZUELA

Head of Delegation

Hildegard RONDON DE SANZO (Mrs.), Industrial Property Office, Caracas.

* This State has since changed its name; at the time of publication of these Records it is designated as "Zair."

ORGANIZATIONS

Participating in the Capacity of Observers

Intergovernmental organization

Council of Europe

Alexandre PAPANDREOU, Administrateur principal, Strasbourg.

International non-governmental organizations

Committee of National Institutes of Patents Agents (CNIPA)

Walter STARK, Patent Agent, Krefeld.

International Chamber of Commerce (ICC)

Yves SAINT-GAL, Director, Union des Fabricants, Paris.
Harry VON DER HUDE, Patent Agent, Copenhagen.

International Association for the Protection of Industrial Property (IAPIP)

Hans LEUENBERGER, Attorney, St. Gall.

International League Against Unfair Competition (LICCD)

Yves SAINT-GAL, Director, Union des Fabricants, Paris.
Franco BENUSSI, Trade Law Assistant, University of Ferrara, Attorney, Milan.
Jacques GUYET, Attorney, Geneva.

International Literary and Artistic Association (ALAI)

Renée V. BLAUSTEIN (Miss), Attorney, Member of the Bureau, ALAI, Paris.
Jacques DUCHEMIN, Secretary General, SPADEM, Paris.

UNITED INTERNATIONAL BUREAUX FOR THE PROTECTION OF INTELLECTUAL PROPERTY (BIRPI)

G. H. C. BODENHAUSEN, Director
Ch.-L. MAGNIN, Deputy Director
L. EGGER, Counsellor, Head of the Registrations,
Searches and Classifications Division
J. LAMB, Head of the Publications Service
H. ROSSIER, Head of the Registry
V. TERBOIS, Head of the Industrial Designs Service

OFFICERS OF THE CONFERENCE

Conference

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<i>Rapporteur General :</i>	W. M. J. C. PHAF (Netherlands)
<i>Secretary General :</i>	Ch.-L. MAGNIN (Deputy Director of BIRPI)

Credentials Committee:

<i>Chairman :</i>	P. SCHÖNFELD (Germany (Federal Republic))
<i>Members :</i>	B. A. F. GODENHIELM (Finland) G. PIZZINI (Mrs.) (Italy) I. TCHERVIKOV (Soviet Union) A. COIGNY (Switzerland) P. BERTANI (Mrs.) (Uruguay)

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**DOCUMENTS RELATING
TO THE
ORGANIZATION
OF THE CONFERENCE**

GENERAL INFORMATION ON THE LOCARNO CONFERENCE

(August 27, 1968; Original: French; Document L/INF/1)

Agenda and Documents

The Locarno Conference, 1968, (hereinafter referred to as "the Conference") will deal with the drawing up of an Agreement establishing an international classification for industrial designs.

The work of the Conference will be based on the proposals prepared by BIRPI at the request of the Government of Switzerland. These proposals appear in document L/1. The draft Rules of Procedure of the Conference are contained in document L/3. Copies of these documents have been dispatched by BIRPI to all invited Governments and International Organizations.

Interested Governments and Organizations were asked to inform BIRPI of any observations they wished to make regarding these documents. The observations which reached BIRPI before August 15, 1968, were reproduced in documents L/2 and L/4. These documents have been sent by BIRPI to the interested Governments and Organizations.

[...]

Observations received by BIRPI after August 15, 1968, will be distributed at the Conference.

Invitations

The Locarno Conference is a diplomatic or negotiating Conference, also called a conference of plenipotentiaries. In other words it is a conference of States represented by their Government delegations, having credentials. The composition of each delegation is a matter for each Government. All expenses are borne by the appointing Government.

Invitations were issued through diplomatic channels by the Federal Political Department, in the name of the Swiss Federal Council.

Intergovernmental and Non-Governmental Organizations were invited to participate in the Conference by the Government of Switzerland or, in its name, by BIRPI. Members of delegations from countries not belonging to the Paris Union and representatives of Organizations will be authorized to attend the meetings of the Conference and of its General Committee as observers.

Acceptance of Invitations and Credentials

Governments and Organizations invited by the Government of Switzerland which have not yet replied are requested to do so without delay through the diplomatic representatives of Switzerland.

Organizations which have been invited by BIRPI and which have not yet replied are requested to do so without delay to BIRPI direct.

Replies should indicate the names and titles of the members of the Delegations.

The credentials of delegates and the names of alternate delegates and advisors must be handed over to the Secretary General of the Conference on October 2, 1968, at Locarno. Such credentials must be signed either by the Head of Government or by the Minister for Foreign Affairs. They should specify the names of the delegates authorized to sign the Convention to be adopted at the Conference.

Representatives of any organizations invited as observers must be appointed in a note or letter signed by the Head of the organization and handed over to the Secretary General of the Conference.

Organization of Meetings

The Conference will hold a plenary meeting at the beginning and at the end of the time allotted : at the beginning, for the adoption of the Rules of Procedure of the Conference and the election of the Officers of the Conference, the Credentials Committee and the Drafting Committee ; at the end, for a final vote on the texts and for signature of the instrument adopted.

The work of drawing up the texts will be carried out by a "General Committee."

[...]

RULES OF PROCEDURE OF THE CONFERENCE

(July 17, 1968 ; Original : French ; Document L/3)

Article 1 : The Locarno Conference of 1968 has been convened with a view to adopting, within the framework of the Paris Union, a Special Agreement establishing an international classification for industrial designs.

Article 2 : The proposals prepared by BIRPI at the invitation of the Swiss Government together with the proposals sent in to BIRPI by the Governments of countries of the Paris Union shall constitute the basis of the work of the Conference.

Article 3 : The Conference shall appoint a Chairman, three Vice-Chairmen and a Rapporteur General, who shall be the Officers of the Conference.

The Director of BIRPI shall designate a member of the BIRPI staff as Secretary General of the Conference.

The Conference shall also appoint the members of the Credentials Committee and of the Drafting Committee.

Article 4 : The Chairman of the Conference shall preside over the debates and shall govern the order of the work of the Conference. He may delegate any or all of his powers.

Article 5 : Members of delegations of the countries of the Paris Union invited to the Conference may take part in the discussions and voting, but each country shall have one vote only. A delegation may represent only its own government and may vote solely in the name of that Government.

Members of delegations of the countries outside the Paris Union invited to the Conference in observer quality, as well as representatives of Intergovernmental Organizations invited, may take part in the discussions and may present observations.

Representatives of Non-Governmental Organizations shall have the capacity of observers. They may make their views known at the invitation of the Chairman of the Conference or General Committee.

Article 6 : The Conference shall resolve itself into a General Committee.

The Officers of the Conference shall perform the same functions in the General Committee.

Article 7 : The texts adopted by the General Committee shall be submitted to the Drafting Committee before being presented to the Conference in their entirety by the Rapporteur General.

Article 8 : The Credentials Committee shall present its report to the Conference. Credentials shall emanate either from the Head of State or Government or from the Minister for Foreign Affairs. While waiting for a decision to be made regarding their credentials, the delegations shall be entitled to participate provisionally in the Conference.

Article 9 : Any new text proposed to the Conference or to the General Committee for discussion must be handed over in writing to the Secretariat and distributed before discussion thereof takes place.

The Chairman may, however, allow proposals to be taken into consideration and discussed even if copies have not been distributed.

Article 10 : Votes shall be taken by show of hands unless a delegation requests a vote by roll call in which case the vote shall be taken by roll call. A majority of two-thirds of the delegations present and voting shall be required for the adoption of texts at plenary meetings of the Conference. A simple majority shall suffice at meetings of the General Committee and of the other organs of the Conference.

Article 11 : Before the Conference has come to a close, the Rapporteur General shall present his report on the work of the Conference as a whole.

Article 12 : Summary records of the plenary meetings of the Conference and of the General Committee shall summarize the debates and report on proposals made during meetings, arguments put forward, and results of voting.

The summary records shall be submitted to the delegates for verification, if possible before the Conference closes.

The Acts of the Conference shall be published by the International Bureau after the Conference has been brought to a close.

Article 13 : The debates of the Conference shall be interpreted in French, English and Spanish.

Any delegation may use another language, on condition that interpretation is provided by that delegation.

The working documents of the Conference shall be drafted in French and English.

**DOCUMENTS RELATING
TO THE TEXT OF THE AGREEMENT**

DRAFT LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS

**(Proposals prepared by BIRPI at the request
of the Government of Switzerland)**

(October 15, 1967; Original: French; Document L/1)*

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* *Editor's Note:* Document L/1/Rev., which exists only in English, is not reproduced in these *Records*. The corrections of a purely editorial nature (to the text of the draft Agreement) which were proposed in that document, in order to harmonize the English text of the Locarno Agreement with the English texts of other Conventions and Agreements adopted by the Stockholm Diplomatic Conference, have been incorporated in the text of document L/1.

INTRODUCTION

THE PRESENT DOCUMENT

1. This document concerns a proposal for the establishment of a Special Agreement, within the framework of the Paris Convention for the Protection of Industrial Property, for the purpose of instituting an international classification for industrial designs.

2. It is divided into the following four parts :

(a) the introduction, containing a historical review of the matter of international classification for industrial designs, as well as a number of general explanations regarding the contemplated system ;

(b) the text—and a commentary thereon—of the Draft Special Agreement to be submitted to the Diplomatic Conference of Locarno ;

(c) the text—and a commentary thereon—of a Draft Resolution to be submitted to the Conference ;

(d) lastly, the list of classes and subclasses of the international classification drawn up by a Committee of Experts convened by BIRPI in 1966.

3. This document was prepared by BIRPI at the request of the Government of Switzerland, which will act as host to the Diplomatic Conference to be held at Locarno from October 2 to 8, 1968.

PREPARATORY WORK

First inquiry made among the countries of the International Union for the Protection of Industrial Property (Paris Union) (1963)

4. In a circular dated April 11, 1963, the Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) consulted all member countries of the Paris Union for the Protection of Industrial Property on the interest there would be, in their opinion, in having a classification of goods in which industrial designs are incorporated, which would be more complete than the various classifications in use at the time and which might be adopted by a large number of the Union countries, if not by all of them.

5. The result of this inquiry was that sixteen Union countries indicated an interest in establishing such an international classification, namely : Austria, Canada, Ceylon, Denmark, France, Germany (Federal Republic), Ireland, Italy, Monaco, New Zealand, Norway, South Africa, Sweden, Switzerland, United Kingdom, Yugoslavia. Of these sixteen countries, only four are members of the Hague Union concerning the International Deposit of Industrial Designs : France, Germany (Federal Republic), Monaco, Switzerland.

6. The interest thus shown by a relatively large number of the countries party to the Paris Union but not to the Hague Union emphasizes the importance generally attached to the establishment of a uniform international classification for industrial designs. By permitting the goods in which industrial designs are incorporated to be uniformly classified, this classification would, in fact, facilitate

the work of searching for anticipation done both by the Administrations that carry out such searches and by the interested parties themselves.*

First Committee of Experts (1964)

7. In view of the positive results of the inquiry he had made, the Director of BIRPI convened, in October 1964, a Committee of Experts entrusted with the tasks of examining the question of establishing an international classification of goods in which industrial designs are incorporated. All countries of the Paris Union were invited to participate in the work of the Committee.

8. The Committee met at Geneva from October 12 to 16, 1964, and was comprised of experts from the following thirteen countries: Austria, Czechoslovakia, Denmark, France, Italy, Netherlands, Norway, Poland, Spain, Sweden, Switzerland, United Kingdom, United States of America. The Committee drew up a draft international classification and expressed the wish that the Director of BIRPI would bring the draft to the notice of all member countries of the Paris Union and would invite them to give their opinions on it.

Second inquiry made among the countries of the Paris Union (1965)

9. The draft international classification was communicated by the Director of BIRPI to the member countries of the Paris Union in May 1965. The following thirteen countries submitted observations on the subject of the draft: Austria, Denmark, Finland, Germany (Federal Republic), Italy, Netherlands, Norway, Poland, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia.

Second Committee of Experts (1966)

10. At the invitation of the Director of BIRPI, the second Committee of Experts met at Geneva from May 2 to 5, 1966, to consider the observations submitted with the replies received from the Union countries and, having regard to these observations, to proceed with the study of the international classification for designs.

11. This second Committee of Experts—in whose work, like that of the first Committee, all countries of the Paris Union had been invited to participate—comprised experts from the following nineteen countries: Algeria, Austria, Belgium, Czechoslovakia, Denmark, Dominican Republic, France, Germany (Federal Republic), Italy, Mexico, Netherlands, Norway, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America.

12. The achievements of the Committee were as follows:

(a) It worked out a list of classes and subclasses for classifying the goods in which industrial designs can be incorporated. This list comprises 31 classes, which are divided into subclasses.

(b) It recommended that the said list should be completed by an alphabetical list of goods with an indication of the class or subclass into which each of them falls, as was done in the case of the international classification for marks.

(c) It further recommended that explanatory notes concerning the various classes and subclasses should be attached to this list so as to facilitate interpretation and a uniform application of

* It should be noted that, with the entry into force of the Hague Act of November 28, 1960, which revises the Hague Agreement concerning the International Deposit of Industrial Designs, this classification—apart from the advantages it offers to all countries of the Paris Union—will be of particular importance to the countries of the Hague Union, considering that, under the terms of Article 5(4) of the Hague Act, multiple deposits may be made only in respect of goods appearing in the same class of the international classification. It was for this reason that the Hague Conference of 1960 passed a Resolution setting up a provisional Committee entrusted with the preparatory work for the establishment of such an international classification. To date, the Hague Act of November 28, 1960, has been ratified by only France, Liechtenstein and Switzerland.

the international classification in the various countries that adopt it. (The international classification for marks also includes explanatory notes.)

(d) It recommended that the Director of BIRPI should propose to the member countries of the Paris Union that a Special Agreement be concluded, in connection with that Union, to provide a frame for the international classification itself. During the Committee's debates, the observations put forward in support of such an Agreement were essentially the following :

- (i) The international classification of goods to which marks are applied was originally the subject of recommendations made by "technical meetings" or committees of experts. It was not actually applied until after it received the support of an international Agreement.
- (ii) The example of the international classification for marks emphasizes the necessity of setting up a permanent international organ having the task of adapting the classification to the development of technology and industry. In the absence of such an organ, countries will resort to modifying or adding to an international classification themselves, and sometimes—due to a lack of coordination—this will be done in different ways, which will be prejudicial to the international character of the classification. The only way to prevent this from happening to the proposed classification for designs is to have a Special Agreement concluded within the framework of the Paris Union and to empower a Committee, set up by that Agreement, to make decisions in respect of the said classification which are binding on the countries.

(e) Lastly, the Committee recommended that the Director of BIRPI should "propose to the Executive Committee of the Conference of Representatives of the Paris Union that it envisage the preparation of a Diplomatic Conference whose task would be to establish an Agreement and a Special Union with a view to providing the international classification with a framework in which to become a reality" (Report of the Committee, *Industrial Property*, 1966, pp. 103-105).

Executive Committee of the Conference of Representatives (1966)

13. In accordance with the recommendation of the second Committee of Experts, the Director of BIRPI submitted the question of the international classification for designs to the Executive Committee of the Conference of Representatives of the Paris Union.

14. The Executive Committee considered the matter at its 1966 session (September 26 to 29, 1966). It was of the opinion that it would be desirable to hold a Diplomatic Conference with a view to the adoption of a treaty on the classification of goods for the purposes of industrial design registration and that it would be fitting to ask the Swiss Government to act as host to the Conference, if convocation by a government was considered necessary (Report on the Session of the Executive Committee, *Industrial Property*, 1966, p. 228).

Decision of the Host Government (1967)

15. In a letter of September 8, 1967, to the Director of BIRPI, the Government of the Swiss Confederation declared that it would agree to having Switzerland act as host country to the Conference, which would be held at Locarno from October 2 to 8, 1968.

BRIEF ANALYSIS OF THE PROPOSALS TO BE SUBMITTED TO THE LOCARNO CONFERENCE OF 1968

16. This document, prepared by BIRPI at the request of the Government of the Swiss Confederation, contains the draft of a Special Agreement to be concluded within the framework of the Paris Convention for the Protection of Industrial Property, the draft of a proposed Resolution, and a list—adopted by the 1966 Committee of Experts—of classes and subclasses into which goods incorporating designs fall. The Draft Agreement and Draft Resolution are accompanied by a commentary.

The Draft Special Agreement

17. The Draft Agreement draws its inspiration from the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (hereinafter called the "Nice Agreement"), as revised, in respect of the administrative and financial provisions and the final clauses, at the Diplomatic Conference of Stockholm in July 1967.

18. The Draft Agreement provides for the adoption of an international classification comprised of three elements : (a) a list of classes and subclasses, (b) an alphabetical list of goods, (c) explanatory notes.

19. The list of classes and subclasses was drawn up by the 1966 Committee of Experts.

20. A permanent Committee of Experts is entrusted, like the one which the Nice Agreement set up for the purposes of the classification relating to marks, with bringing the list of classes and subclasses up to date as and when this may be required.

21. This Committee would also have the task of adopting the other elements of the international classification, namely, the alphabetical list of goods and the explanatory notes.

The Draft Resolution

22. So that, as soon as the Agreement enters into force, the Committee of Experts it provides for will be able to adopt the alphabetical list of goods and the explanatory notes, the Draft Resolution calls for the setting up, at BIRPI, of a provisional Committee of Experts similar to the one that had been set up, under the Nice Agreement, for the purposes of the international classification relating to marks.

23. This provisional Committee of Experts will draw up the alphabetical list of goods and draft the explanatory notes. It may also, if necessary, draft amendments or additions to be incorporated in the list of classes and subclasses.

List of Classes and Subclasses

24. As indicated above, the list of classes and subclasses is the one drawn up by the 1966 Committee of Experts. The list will constitute an element of the international classification. It may be amended by the Committee of Experts set up by the Special Agreement once this Agreement enters into force.

COMMENTARY

COMMENTARY ON ARTICLE 1

25. *Paragraphs (1) and (2)*, just like the corresponding paragraphs in Article 1 of the Nice Agreement, provide for the adoption of a single classification (*paragraph (2)*) and for the establishment of a Special Union (*paragraph (1)*) by the contracting countries.

26. This single classification comprises a list of classes and subclasses, an alphabetical list of goods, and explanatory notes. This is specified in *paragraph (3)*.

27. There is no reference to explanatory notes in the Nice Agreement. The fact that they were not mentioned caused some difficulty when the provisional Committee of Experts, realizing that such notes were necessary, raised the question of having them published. It therefore seems advisable to make these explanatory notes official by expressly mentioning them in the suggested Agreement.

28. As was the case of the Nice Agreement, it is not proposed to incorporate the classification into the text of the Agreement. The establishment of a classification involves highly technical work, and it would be difficult for a Diplomatic Conference to accomplish such a task. It is therefore suggested, on the analogy of what was done at the Nice Conference, that the Agreement should declare that it adopts an already existing list of classes and subclasses, in this instance the one worked out by the 1966 Committee of Experts. At the same time, the Agreement entrusts a Committee of Experts with the task of drawing up the alphabetical list of goods and drafting the explanatory notes, as well as with the responsibility of adapting the classification to changing circumstances and of improving it so as to take into account the experience gained from using it. It seems, in fact, more appropriate to entrust this task to a Committee of Experts than to Conferences of Revision.

29. It is consequently proposed that the list of classes and subclasses (*paragraph (4)*) should be the one drafted by the 1966 Committee of Experts. The alphabetical list and the explanatory notes (*paragraph (5)*) would be adopted by the Committee of Experts set up under Article 3. To save time, it is suggested that they should be prepared in draft form by a provisional Committee to be set up by a Resolution that would be passed by the Diplomatic Conference adopting the Agreement.

30. *Paragraph (6)* allows for the possibility of amending or adding to the international classification as and when this may be required. The procedure provided for that purpose is laid down in Article 3 of the Draft Agreement and is the same as the one laid down in the Nice Agreement. *Paragraph (6)* thus provides that a Committee of Experts may make permanent additions or revisions in the classification in accordance with the procedure of Article 3.

31. *Paragraph (7)(a)* provides for the establishment of the international classification in English and in French. It should be noted that the 1966 Committee of Experts drew up the list of classes and subclasses in both of these languages.

32. *Paragraph (7)(b)* 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 the Nice Union.

TEXT OF THE PROPOSED AGREEMENT
LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION
FOR INDUSTRIAL DESIGNS

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

- (1) The countries to which this Agreement applies constitute a Special Union.
- (2) They adopt a single classification for industrial designs (hereinafter designated as “the international classification”).
- (3) The international classification shall comprise :
 - (i) a list of classes and subclasses ;
 - (ii) an alphabetical list of goods with an indication of the classes or subclasses into which they fall ;
 - (iii) explanatory notes.
- (4) The list of classes and subclasses is the list drawn up in 1966 by the Committee of Experts convened for that purpose by the Director of the United International Bureaux for the Protection of Intellectual Property.
- (5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts set up under Article 3, in accordance with the procedure laid down in that Article.
- (6) The international classification may be amended or supplemented by the Committee of Experts set up under Article 3, in accordance with the procedure laid down in that Article.
- (7)(a) The international classification shall be established in the English and French languages.
- (b) Official texts of the international classification, in such other languages as the Assembly referred to in Article 5 may designate, shall be established, after consultation with the interested Governments, by the International Bureau of Intellectual Property (hereinafter designated as “the International Bureau”) referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as “the Organization”).

COMMENTARY ON ARTICLE 2

33. Article 2 reproduces, almost verbatim, the provisions of Article 2 of the Nice Agreement.
34. *Paragraph (1)* lays down the principle that the effect of the classification is none 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 design.
35. Under the terms of *paragraph (2)*, countries having a proper classification system would be authorized to continue to use such a system as long as, in conjunction with it, they applied the international classification as either a principal or a subsidiary system.
36. *Paragraph (3)* sets forth the essential obligation devolving upon the national Administrations by virtue of the Agreement : that of mentioning, in the official documents and publications concerning deposits or registrations of designs, the numbers of the classes and subclasses of the international classification into which the designs fall.
37. As for *paragraph (4)*, it reserves any existing rights in the terms used for the goods in the alphabetical list of the classification. Hence, any trademark rights that might exist in a given term would, in particular, be reserved.

COMMENTARY ON ARTICLE 3

38. This Article concerns the Committee of Experts set up at the International Bureau by the Special Agreement.
39. According to *paragraph (1)*, a Committee of Experts comprising representatives of all of the contracting countries would be entrusted with the task of adopting the alphabetical list of goods and the explanatory notes and of making the amendments or additions deemed necessary. It is understood that the alphabetical list of goods and the explanatory notes will have been drawn up beforehand—in draft form—by the provisional Committee of Experts set up by the Resolution discussed below.
40. *Paragraphs (2), (3), (4), and (5)* are based on similar provisions in the Nice Agreement (Article 3, paragraphs (2), (3) and (4)). They deal respectively with :
- the majority required for the adoption of the alphabetical list and explanatory notes (*paragraph (2)*) ;
 - the procedure for transmitting proposals for amendments or additions to the international classification (*paragraph (3)*) ;
 - the majority required for the adoption of amendments to the international classification (*paragraph (4)*) ;
 - the majority required for the adoption of additions to the international classification (*paragraph (5)*).
41. As regards the majorities required within the Committee of Experts, *paragraphs (4) and (5)* take up the parallel provisions of the Nice Agreement (Article 3(3) and (4)) and distinguish between “amendments” to the international classification, requiring unanimous consent, and “additions” to the classification decided by a simple majority. “Amendment” is defined (*paragraph (4)*) as meaning “any transfer of goods from one class to another or the creation of any new class entailing such

ARTICLE 2: USE AND LEGAL SCOPE OF THE INTERNATIONAL CLASSIFICATION

(1) Subject to the requirements prescribed by this Agreement, the effect of the international classification shall be that attributed to it by each country of the Special Union. In particular, the international classification shall not bind the countries of the Special Union in respect of the evaluation of the extent of the protection afforded to any given design.

(2) Each country of the Special Union reserves the right to use the international classification as a principal or as a subsidiary system.

(3) The Offices of the countries of the Special Union shall include in the official documents and publications concerning deposits or registrations of designs the numbers of the classes and subclasses of the international classification into which the goods incorporating the designs belong.

(4) The fact that a term is included in the alphabetical list of goods in no way affects any rights which might subsist in such a term.

ARTICLE 3: COMMITTEE OF EXPERTS

(1) A Committee of Experts entrusted with the tasks referred to in Article 1(5) and with deciding all amendments and additions to be made in the international classification shall be set up at the International Bureau. Each country of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a majority of the countries represented.

(2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the votes of the countries of the Special Union.

(3) Proposals for amendments or additions to the international classification may be made by the Office of any country of the Special Union or by the International Bureau. Any proposal emanating from an Office shall be communicated by that Office to the International Bureau. Proposals from Offices and from the International Bureau shall be transmitted by the latter to the members of the Committee of Experts not later than two months before the session of the Committee at which the said proposals are to be considered.

(4) Decisions of the Committee concerning amendments to the international classification shall require the unanimous consent of the countries of the Special Union. "Amendments" shall mean any transfer of goods from

transfer.” The majority that is provided for additions (*paragraph (5)*) is also the one provided for the adoption of the alphabetical list and the explanatory notes (*paragraph (2)*).

42. In this connection, the General Report on the Nice Agreement makes the following statement : “The Committee considered it advisable to define, in Article 3(3), what is meant by “amendment,” the adoption of which requires the unanimity of the countries ; it was understood that this meant amendments likely to affect the rights of the owners of marks, that is the transfer of goods or services from one class to another or the creation of new classes the effect of which would be to entail such transfer. It would not be justified, of course, to require, for acceptance by the Committee of Experts, the unanimity of the countries for additions to the classification, which consist, for example, in the addition of new goods or services appearing on the market and the entry thereof into existing classes or in the creation of a new class containing only new goods or services and having no effect on previously acquired rights” (translated from the *Actes de la Conférence de Nice*, page 229). These comments, which are made with reference to the international classification for marks, seem to be just as applicable to the subject of designs, at least for those countries where the protection of industrial designs is not included in the copyright legislation. Consequently, the provisions of Article 3(3) and (4) of the Nice Agreement have been included in the present Draft (*paragraphs (4) and (5)*).

43. *Paragraphs (6) and (7)* are similar to the provisions of the Nice Agreement (Article 3(5) and (6)) ; they relate to the representation of countries on the Executive Committee and to the tacit approval of that Committee’s decisions.

COMMENTARY ON ARTICLE 4

44. *Paragraph (1)* of Article 4 is based on similar provisions in Article 4(1) of the Nice Agreement. It provides that additions to the classification, notified by the International Bureau to the Administrations of the countries of the Special Union, will enter into force upon receipt of such notification. As to amendments thus notified, they will only enter into force within a period of six months to be reckoned from the date of dispatch of the notification.

45. In this same connection, the General Report on the Nice Agreement comments as follows : “This difference in the time of entry into force is justified by the fact that amendments made to the classification may, in some countries, entail the adoption of administrative measures, perhaps even of a legislative nature, permitting those countries to apply the amendments in question. Additions, on the other hand, will normally consist in the mere addition of new goods or services to the alphabetical list of goods and services and must simply be noted ; moreover, particular haste in regard to the entry into force of additions is justified by the interest an owner will normally have in seeing the goods or services which his mark serves to characterize appear as early as possible in the classification and in having the registration of his mark be in order from that point of view” (translated from the *Actes de la Conférence de Nice*, page 229). These observations appearing in the General Report on the Nice Agreement also apply to amendments and additions to the classification for designs.

46. *Paragraph (2)*, corresponding to Article 4(2) of the Nice Agreement, entrusts the International Bureau with the task of keeping the international classification, of which it is the administrator, up to date by incorporating amendments and additions into it as soon as they enter into force and by publishing them in its periodicals, *Industrial Property*, *La Propriété industrielle*, *La Propiedad Industrial* and *Les Dessins et Modèles internationaux*.

one class to another or the creation of any new class entailing such transfer.

(5) Decisions of the Committee concerning additions to the international classification shall require a simple majority of the votes of the countries of the Special Union.

(6) Each expert shall have the right to submit his opinion in writing or to delegate his powers to the expert of another country.

(7) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed does not submit his opinion within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

ARTICLE 4: NOTIFICATION AND PUBLICATION OF THE CLASSIFICATION AND OF AMENDMENTS AND ADDITIONS THERETO

(1) The alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as every amendment and addition to the international classification decided by the Committee, shall be notified to the Offices of the countries of the Special Union by the International Bureau. The decisions shall enter into force, as far as additions are concerned, as soon as the notification is received, and, as far as amendments are concerned, within a period of six months from the date of dispatch of the notification.

(2) The International Bureau, as administrator of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of such amendments and additions shall be published in the periodicals, *Industrial Property*, *La Propriété industrielle*, *La Propiedad Intelectual*, and *Les Dessins et Modèles internationaux*.

COMMENTARY ON ARTICLE 5

47. Article 5, as proposed, is practically identical with Article 5 of the Nice Agreement as revised at Stockholm.

48. The only differences are the following : 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, as is mentioned in paragraph 32 of this Commentary, 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.

ARTICLE 5: 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 expenses of each delegation shall be borne by the Government which has appointed it.

(2)(a) Subject to the provisions of Article 3, 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 (hereinafter designated as "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 international classification in languages other than English and French;
- (vii) establish, in addition to the Committee of Experts referred to in Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union;
- (viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (ix) adopt amendments to Articles 5 to 8;
- (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 others Unions administered by the Organization, the

COMMENTARY ON ARTICLE 6

49. Article 6, as proposed, is identical with Article 6 of the Nice Agreement as revised at Stockholm.

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 8(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 6: 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 of experts and working groups as may have been established by the Assembly or the Committee of Experts.

COMMENTARY ON ARTICLE 7

50. Article 7, as proposed, is identical with Article 7 of the Nice Agreement as revised at Stockholm.

51. The expenses of the Special Union will be made up primarily of the costs of holding the meetings of its organs (Assembly, Committee of Experts), the publication of the international classification and its amendments and additions in different languages, and the participation of the Special Union in the general expenses of the International Bureau.

52. The income of the Special Union will be derived primarily from the contributions of the member States and from the sale of published copies of the classification.

53. The member States of the Special Union will decide on the budget of that Union and on the amount of the contributions of the States. On the basis of the experience gained in connection with the Nice Union, it can be estimated that the total amount of annual contributions will be approximately 50,000 Swiss francs. The amount of each State's contribution will depend on the total number of States and on the class each one selects. In any event, it will be a fraction of the sum indicated above.

(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 of experts 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 5 to 8.

(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.

ARTICLE 7: 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

COMMENTARY ON ARTICLE 8

54. Article 8, as proposed, is practically identical with Article 8 of the Nice Agreement as revised at Stockholm. However, the distinction made between countries of the Special Union and countries members of the Assembly—that is, countries of the Special Union which have ratified the most recent Act of the Agreement—is not pertinent here and has not been retained.

COMMENTARY ON ARTICLE 9

55. Article 9, as proposed, is practically identical with Article 9 of the Nice Agreement as revised at Stockholm. However, the distinction made between the countries already members of the Special Union (Article 9(1) of the Stockholm Act of the Nice Agreement) and the new countries of the Special Union (Article 9(2) of the Stockholm Act of the Nice Agreement) is not pertinent here and has not been retained.

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 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.

ARTICLE 8: AMENDMENT OF ARTICLES 5 TO 8

(1) Proposals for the amendment of Articles 5, 6, 7 and 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 5, 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 9: 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.

COMMENTARY ON ARTICLE 10

56. Article 10, as proposed, is identical with Article 10 of the Nice Agreement as revised at Stockholm.

COMMENTARY ON ARTICLE 11

57. Article 11, as proposed, sets forth the same principle as Article 11 of the Nice Agreement as revised at Stockholm.

COMMENTARY ON ARTICLE 12

58. Article 12, as proposed, is identical with Article 13 of the Nice Agreement as revised at Stockholm, except for the deletion of the provision dealing, in the Nice Agreement, with denunciation of the earlier Act.

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

(3)(a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Agreement shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Agreement shall enter into force three months after the date on which its ratification or accession 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.

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

ARTICLE 10: FORCE AND DURATION OF THE AGREEMENT

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

ARTICLE 11: REVISION OF ARTICLES 1 TO 4 AND 9 TO 15

(1) Articles 1 to 4 and 9 to 15 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.

ARTICLE 12: 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.

* *Editor's Note*: It is to be noted that in Article 10 of the English text of the Draft Agreement there is an evident error: the word "Intellectual" should be replaced by the word "Industrial."

COMMENTARY ON ARTICLE 13

59. Article 13, as proposed, is identical with Article 14 of the Nice Agreement as revised at Stockholm.

COMMENTARY ON ARTICLE 14

60. Article 14, as proposed, is similar to Article 15 of the Nice Agreement as revised at Stockholm. However, considering that the preparatory work—in particular the list of classes and subclasses drawn up by the 1966 Committee of Experts—has always been carried out in two languages, English and French, and as it is suggested that the list of goods and explanatory notes should also be established in those two languages, it is proposed to have the Agreement signed in English and French.

COMMENTARY ON ARTICLE 15

61. The proposed article is similar to Article 16(1) of the Nice Agreement as revised at Stockholm.

62. Article 16(2) of the Nice Agreement has been omitted because it concerns the countries of the Nice Union that are bound by an Act prior to the last Act of the Agreement.

(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 13: TERRITORIES

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

ARTICLE 14: SIGNATURE, LANGUAGES, NOTIFICATIONS

(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 Government of Switzerland.

(b) This Agreement shall remain open for signature at Berne until January 31, 1969.

(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) The Director General shall transmit two copies, certified by the Government of Switzerland, 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.

(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.

ARTICLE 15: TRANSITIONAL PROVISION

Until the first Director General assumes office, references in this Agreement to the International Bureau of the Organization or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Intellectual Property (BIRPI) or its Director, respectively.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.
DONE at Locarno, on October 8, 1968.

COMMENTARY

63. The purpose of the procedure proposed in the Draft Resolution is to enable the Committee of Experts set up under the Agreement to take decisions on the very day the Agreement enters into force. This would be possible precisely because of the fact that this provisional Committee would do the preparatory work in the interval between the date on which the Agreement is signed and the date on which it enters into force.

64. It should be noted that the provisional Committee set up by the Resolution and the Committee set up by the Agreement will not necessarily have the same membership. In the first one, the countries that have signed the Agreement will be represented ; the second one will be composed of the countries which, at the time the Agreement enters into force, are bound by it by virtue of their ratification or accession.

PROPOSED RESOLUTION

- (1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs, signed this day.
- (2) This provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1(5) of the Agreement. It may also, if necessary, submit drafts of amendments and additions to the list of classes and sub-classes mentioned in Article 1(4) of the Agreement.
- (3) The International Bureau shall prepare the work of the Committee and shall convene it as early as possible.
- (4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.
- (5) The travel and subsistence expenses of the members of the provisional Committee of Experts shall be borne by the countries which they represent.

LIST OF CLASSES AND SUBCLASSES*

Class 1—Foodstuffs, Including Dietetic Foods

- 01) Bakers' products, biscuits, pastry, macaroni, etc.
- 02) Chocolates, confectionery, ices
- 03) Cheeses, butter and other dairy produce and substitutes
- 04) Butchers' meat (including pork products)
- 05) Animal foodstuffs
- 99) Miscellaneous

Class 2—Articles of Clothing, Including Footwear

- 01) Garments
- 02) Undergarments, lingerie, corsets, brassières
- 03) Headwear
- 04) Footwear (including boots, shoes and slippers)
- 05) Socks and stockings
- 06) Neckties, scarves and neckerchiefs
- 07) Gloves
- 08) Haberdashery
- 99) Miscellaneous

Class 3—Travel Goods and Personal Belongings, Not Elsewhere Specified

- 01) Trunks, suitcases and briefcases
- 02) Handbags, wallets, pocketbooks, purses, boxes
- 03) Umbrellas, walking sticks
- 04) Fans
- 99) Miscellaneous

Class 4—Brushware

- 01) Brushes for cleaning and brooms
- 02) Toilet and clothes brushes
- 03) Brushes for industry
- 04) Paint-brushes
- 99) Miscellaneous

Class 5—Textile Piecegood Articles, and Other Sheet Material

- 01) Spun articles
- 02) Textile fabrics (woven, knitted, etc.)
- 03) Sheet material
- 04) Felt
- 05) Covering sheets (wallpaper, linoleum, etc.)
- 06) Lace
- 07) Embroideries
- 08) Ribbons, braids and other trimmings

* Established by the 1966 Committee of Experts.

- 09) Leather and substitutes
- 99) Miscellaneous

Class 6—Furnishing

- 01) Furniture
- 02) Mattresses and cushions
- 03) Curtains (ready-made)
- 04) Carpets
- 05) Mats and floor rugs
- 06) Mirrors and frames
- 07) Garment hangers
- 08) Bedspreads
- 09) Household linen and napery
- 99) Miscellaneous

Class 7—Household Goods, Not Elsewhere Specified

- 01) China, glassware, dishes and other articles of similar nature
- 02) Cooking utensils and containers
- 03) Knives, forks and spoons
- 04) Cooking stoves, toasters, etc.
- 05) Chopping, mincing, grinding and mixing machines
- 06) Flat-irons and laundering, cleaning and drying equipment
- 99) Miscellaneous

Class 8—Tools and Hardware

- 01) Tools and implements for agriculture, forestry and horticulture
- 02) Other tools and implements
- 03) Locks and other hardware fittings
- 04) Nails, screws, nuts, bolts, etc.
- 99) Miscellaneous

Class 9—Packages and Containers

- 01) Bottles, flasks, carboys, demijohns and pots
- 02) Closing means
- 03) Drums and casks
- 04) Boxes and cases
- 05) Hampers, crates and baskets
- 06) Bags, wrappers and tubes and capsules
- 07) Cans
- 08) Ropes and hooping materials
- 99) Miscellaneous

Class 10—Clocks and Watches, and Measuring Instruments

- 01) House clocks
- 02) Watches and wrist-watches
- 03) Alarms
- 04) Other clocks
- 05) All other chronometrical instruments
- 06) Dials, hands and all other parts of watches, clocks, and of other chronometrical instruments
- 07) Geodetic, nautical, acoustic and meteorological articles
- 08) Instruments for measuring physical sizes, like length, pressure, etc.
- 09) Instruments for measuring temperature

- 10) Instruments for measuring electric sizes (voltmeters, etc.)
- 11) Testing instruments
- 99) Miscellaneous

Class 11—Articles of Adornment

- 01) Jewelry
- 02) Trinkets, table, mantel and wall ornaments, including flower vases
- 03) Medals and badges
- 04) Artificial flowers, fruits and plants
- 05) Festive decorations
- 99) Miscellaneous

Class 12—Vehicles

- 01) Vehicles drawn by animals
- 02) Trolleys, trucks and barrows, hand-drawn
- 03) Locomotives and rolling-stock for railways and all other rail vehicles
- 04) Telepher carriers and chair lifts
- 05) Elevators and hoists
- 06) Ships and boats
- 07) Aircraft and space vehicles
- 08) Motor-cars and buses
- 09) Lorries and tractors
- 10) Trailers, including camping or house trailers
- 11) Motorcycles, scooters, bicycles and tricycles
- 12) Perambulators and invalid chairs
- 13) Special vehicles
- 14) Pneumatic tyres, inner tubes and all other equipment or accessories, not elsewhere specified
- 99) Miscellaneous

Class 13—Equipment for Production, Distribution and Transformation of Electricity

- 01) Generators and motors
- 02) Power transformers, rectifiers, batteries and accumulators
- 03) Equipment for distribution and control of electric power (conductors, switch-gear, etc.)
- 99) Miscellaneous

Class 14—Electrical and Electronic Equipment

- 01) Equipment for the recording and reproduction of sounds or pictures
- 02) Equipment for the recording, reproduction and retrieval of information
- 03) Communications equipment (telegraph, telephone, teletype, television and radio)
- 04) Amplifiers
- 99) Miscellaneous

Class 15—Industrial and Household Machines

- 01) Engines (not electrical)
- 02) Pumps and compressors
- 03) Agricultural machinery
- 04) Construction machinery
- 05) Industrial machines, not elsewhere specified
- 06) Industrial laundry and cleaning machines

- 07) Household laundry and cleaning machines
- 08) Industrial textile sewing, knitting and embroidering machines
- 09) Household textile sewing, knitting and embroidering machines
- 10) Industrial refrigeration apparatus
- 11) Household refrigeration apparatus
- 12) Food preparation machines
- 99) Miscellaneous

Class 16—Photographic, Cinematographic and Optical Apparatus

- 01) Photographic cameras
- 02) Film cameras
- 03) Projectors (for slides)
- 04) Projectors (for films)
- 05) Photocopying apparatus and enlargers
- 06) Developing apparatus
- 07) Accessories
- 08) Optical articles, such as spectacles, microscopes, etc.
- 99) Miscellaneous

Class 17—Musical Instruments

- 01) Keyboard instruments (including electronic and other organs)
- 02) Wind instruments (including piano accordions)
- 03) Stringed instruments
- 04) Percussion instruments
- 05) Mechanical instruments
- 99) Miscellaneous

Class 18—Printing and Office Machinery

- 01) Typewriters and calculating machines, with the exception of electronic machines
- 02) Typographical machinery
- 03) Machinery for printing by processes other than typography (excluding photocopying machinery)
- 04) Characters and type faces
- 05) Massicots
- 99) Miscellaneous

Class 19—Stationers' Goods, Desk Equipment, Artists' and Teaching Materials

- 01) Writing paper and envelopes
- 02) Desk equipment
- 03) Calendars
- 04) Bindings
- 05) Illustrated cards and other printed matter
- 06) Materials and instruments for writing by hand
- 07) Materials and instruments for painting (excluding brushes), for sculpture, for engraving and for other artistic techniques
- 08) Teaching materials
- 99) Miscellaneous

Class 20—Sales and Advertising Equipment

- 01) Automatic vending machines
- 02) Display and sales equipment

- 03) Signboards and advertising materials
- 99) Miscellaneous

Class 21—Games, Toys and Sports Goods

- 01) Games
- 02) Toys
- 03) Gymnastics and sports apparatus and equipment
- 04) Amusement and entertainment articles
- 05) Tents
- 99) Miscellaneous

Class 22—Arms and Tackle for Hunting, Fishing and Vermin Trapping

- 01) Side arms
- 02) Projectile weapons
- 03) Ammunition, fuses and projectiles
- 04) Hunting equipment (excluding weapons)
- 05) Fishing rods
- 06) Reels for fishing rods
- 07) Baits
- 08) Other pieces of fishing tackle
- 09) Traps and articles for vermin destruction
- 99) Miscellaneous

Class 23—Sanitary, Heating, Ventilation and Air-Conditioning Equipment

- 01) Fluid and gas-distribution equipment (including pipes and pipe fittings)
- 02) Sanitary fittings and equipment (baths, showers, washbasins, lavatories, sanitary units, etc.)
- 03) Heating equipment
- 04) Ventilation and air-conditioning
- 05) Solid fuel
- 99) Miscellaneous

Class 24—Medical and Laboratory Equipment

- 01) Equipment for transport and accommodation for patients
- 02) Hospital and laboratory equipment (for diagnostic, tests, operations, treatment, eye-testing)
- 03) Medical, surgical, dental instruments
- 04) Prosthetic articles
- 05) Material for dressing and nursing
- 99) Miscellaneous

Class 25—Building Units and Construction Elements

- 01) Building material and elements, such as bricks, beams, tiles, slates, panels, etc.
- 02) Windows, doors, blinds, etc.
- 03) Sections, angles and channels
- 04) Houses, garages, and all other buildings
- 05) Civil engineering elements
- 99) Miscellaneous

Class 26—Lighting Apparatus

- 01) Luminous sources, electrical or not, such as incandescent bulbs, luminous tubes and plates

- 02) Lamps, standard lamps, chandeliers, wall and ceiling fixtures
- 03) Public lighting fixtures (outside lamps, stagelighting, floodlights)
- 04) Torches and hand lamps and lanterns
- 05) Candles, candlesticks
- 06) Lamp-shades
- 99) Miscellaneous

Class 27—Tobacco and Smokers' Supplies

- 01) Tobacco, cigars and cigarettes
- 02) Pipes, cigar and cigarette holders
- 03) Ash-trays
- 04) Matches
- 05) Lighters
- 06) Cigar cases, cigarette cases, tobacco jars and pouches
- 99) Miscellaneous

Class 28—Pharmaceutical and Cosmetic Articles and Products, Toilet Articles and Apparatus

- 01) Pharmaceutical articles and products
- 02) Cosmetic articles and products
- 03) Toilet articles and beauty parlor equipment
- 99) Miscellaneous

Class 29—Safety and Protective Devices and Equipment for Human Beings

- 01) Devices and equipment against fire hazards
- 02) Devices and equipment for water rescue
- 03) Devices and equipment for mountain rescue
- 99) Devices and equipment against other hazards (roads, mines, industries, etc.)

Class 30—Care and Handling of Animals

- 01) Shelters and pens
- 02) Feeders and waterers
- 03) Saddlery
- 04) Safety and protective devices and equipment for animals
- 99) Other articles

Class 31—Miscellaneous

All the products not included in the preceding Classes.

**OBSERVATIONS OF GOVERNMENTS
AND INTERNATIONAL ORGANIZATIONS
ON THE DRAFT AGREEMENT**

DOCUMENTS L/2, L/4, L/5, L/6

AUSTRIA

(March 28, 1968; Original: French; Document L/2)

[...]

The observations of Austria are of a general nature and relate to Article 2 of the Draft Agreement.

The system at present used in Austria for the protection of industrial designs is quite simple and entails a minimum of formalities. It only requires a deposit and provides for neither examination nor publication. There is no official classification of goods in respect of designs. The competent authorities (deposit is decentralized) do group the deposits in their archives into categories, however, to facilitate consultation of the register by the public. The list of goods they employ for this purpose is intended exclusively for internal use. It is therefore purely an administrative means with no legal scope.

It would no doubt be in the public interest for deposits to be arranged in the Austrian registers according to the same principles as are followed in other countries. Such harmonization could facilitate information. Although an international classification offers no advantages for the administration as such, the competent national authorities might take account of the public interest by adopting an international classification for their internal use instead of the list they now use to establish the archives. The transfer from one system to another would cause a temporary increase of work which could be held within reasonable limits by progressive transformation.

Participation in the planned agreement should not, on the other hand, impose any new obligations of a nature to complicate the present deposit procedure or to cause a permanent increase in administrative work and costs.

The decision to be taken will thus depend essentially on the text and interpretation of Article 2 of the draft.

So that there will be no obstacle to accession to the Agreement, it should be possible to interpret paragraph (1) in such a way that the international classification will only constitute an administrative instrument, that is that the deposits will be classified and arranged in the archives according to the list of classes and subclasses. This classification should have no legal scope.

As for the application of the international classification as an auxiliary system in accordance with paragraph (2), it should suffice—at least for a transitional period—to indicate the class or classes of deposits in the register and in the depositors' certificates.

Paragraph (3) should not oblige member States to publish the designs registered. No publication is provided for—at least not in the present Austrian regulations—in respect of these deposits. It is therefore proposed to add the following to the second line: "... in the official documents and, *where applicable, in the official publications...*".

As regards the other provisions of the draft, there are at present no comments to be made. The position of the

Austrian Delegation to the Conference remains reserved, however.

BELGIUM

(September 18, 1968; Original: French; Document L/6)*

As regards the administrative and financial provisions, as well as the final clauses, at least as far as most of them are concerned, the text of the proposed Agreement is similar to that of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, as revised at Stockholm.

This way of proceeding by analogy seems to be quite logical and is justified by the similarities between the two Agreements. It could, however, lead to drawbacks which should be avoided wherever possible.

Particular importance should be given to the transitional period which will run between the entry into force of the Locarno Agreement and the entry into force of the Convention Establishing the World Intellectual Property Organization. It is hoped that the instruments of ratification will be deposited in the not too distant future, but it can be expected that the Locarno Agreement will enter into force earlier than the WIPO Convention, in view of the fact that five deposits of instruments of ratification will suffice for the former whereas the number of instruments required for the latter is substantially higher (Article 15 of the WIPO Convention).

This is why we think that the provisions of Article 15 of the Draft Agreement are not quite satisfactory and should be completed. It might perhaps suffice to indicate the bodies which would be provisionally set up in place of the Coordination Committee (Article 5(2)(b)), the Conference of the Organization (Article 7(1)(b)) and, generally, the Organization itself.

Along the same lines, would it not be in order to avoid the reference to Article 24 of the Paris Convention (Article 13 of the Draft Agreement). It would seem simpler to reproduce these provisions that are referred to in Article 13.

The Belgian Delegation reserves the possibility of coming back to matters of form regarding the Draft Agreement, as well as to certain minor substantive matters that have not been brought up in this letter.

BULGARIA

(March 30, 1968; Original: French; Document L/2)

[...] the Institute for Inventions and Rationalizations has no observations to make regarding the draft Agreement for the adoption of a multilateral treaty establishing an international classification for industrial designs.

*The following observations were addressed to BIRPI in a note dated September 18, 1968, by the Director of the Industrial Property and Commercial Service of the Ministry of Economic Affairs in Brussels: "In view of the Locarno Conference on the International Classification for Industrial Designs, I have the honor to inform you of the observations of Belgium which will be transmitted to you shortly by the Minister for Foreign Affairs."

GHANA

(August 23, 1968; Original: English; Document L/5)

The classification of goods and the Ordinance under which it operates, at the moment in this country is somewhat ancient in form and content. In the very near future, however, the Ordinance will be superseded by new legislation, which is already on the Statute Book, but not yet in force. It is hoped that when this is done the proposed international classification to be set up in Locarno will be a guide to the adoption of an up-to-date classification of goods to be registered in this country. The classification will no doubt be as near as possible to those of many other countries using international classification especially those in the proposed Special Union.

The proposed International Classification re-groups goods on the basis of their utility to man and not from the viewpoint of the manufacturer. This makes easier the process of finding the class or subclass under which a particular item has to be registered.

It is noted, however, that the inclusion of wallpaper and linoleum under Class 5(05) is somewhat misleading. These it is thought, should properly be placed under Class 6—Furnishing.

It is also noted that alcohol and aerated minerals have not been given a distinctive class or subclass. Since they are of such utilitarian importance, it is considered that they should be placed somewhere specifically. At the moment it is doubtful, under the present arrangement, whether they come under Class 1—Foodstuffs, subclass 99—miscellaneous or under Class 31—Miscellaneous generally.

Consideration should be given to this if they were not omitted intentionally.

JAPAN

(April 25, 1968; Original: English; Document L/2)

[....]

The observations of the Japanese Patent Office on the Draft Locarno Agreement

1. As regards the classification in the Japanese Design Law.

In the Japanese Design Law there is no such classification as may define the scope of the right, but there is a classification which may serve as an index of filed applications and may be convenient in the examination of such applications.

Design applications filed in Japan exceed 30,000 in number; they are divided into 50 major classes, into 223 medium classes and further, into 15,000 subclasses. A configurative classification is adopted for the classes where more design applications are filed. It may fairly be said that an almost perfect classification is being made. But, as some deficiencies are perceived in certain classes, a subcommittee has been set up with the work of adjustment.

2. As regards the international classification.

As regards the international classification proposed for convention, it seems to involve the following problems.

(a) Generally, classes are diverse in their content, some being minute and others simple. As to new sophisticated articles, such as those of electronics, classification is extremely broad.

(b) Tools are not included in any class.

(c) Articles not enjoying protection under the Japanese Design Law are included in the international classification, e.g., type faces and jewels (cuts).

3. As noted above, the adoption of the proposed international classification involves various problems. It is intended to undertake further study of the Japanese clas-

sification in connection with the progress of the international classification.

NETHERLANDS

(May 30, 1968; Original: French; Document L/2)

[....]

Ad Article 1(2). The Netherlands Government feels that it would be desirable for this Article to indicate more clearly the purpose of the classification. The classification is intended primarily to be used when designs are deposited and registered, which, moreover, can be seen from Article 2, third paragraph, of the draft. It would thus be preferable for Article 1, second paragraph, to read: "They adopt for designs, with a view to the deposit or classification thereof, a single classification (hereinafter designated 'international classification').".

Ad Article 1(3). With a view to connecting the notion "industrial designs" more closely to the notion "goods," appearing in (ii) of this paragraph, it would be possible to insert, after the word "goods": "in which designs are incorporated."

This clarification seems desirable to the Netherlands Government because the title of the Agreement does not mention the goods, whereas the Nice Agreement does mention them.

Ad Article 1(5) and (6). The Netherlands Government feels that, in contrast to what was done in the case of the Nice Agreement, it would be more systematic to have the provisions concerning amendments or additions to the classification, as well as the Committee of Experts competent for such matters, follow Articles 1 and 2 in which the classification itself and its legal scope are defined. There should simply be a reference to Article 3, in the fifth paragraph, for example the words "in conformity with the provisions of Article 3" after "adopted."

The sixth paragraph should be deleted. Article 3 should include the setting up, the tasks and the working methods of the Committee of Experts.

Ad Article 3. In addition to the above-indicated amendment of Article 3, the notions "amendment" and "addition" should perhaps be made clearer. Paragraph 39 of the commentary mentions "amendments or additions" concerning the alphabetical list of goods, although the text of Article 3, paragraph 4, implies that an amendment of the explanatory notes does not constitute an amendment in the sense of that Article. Should such an amendment then be considered an "addition"? This difficulty does not arise where the Nice Agreement is concerned, because its explanatory notes are not mentioned in Article 1 as an element of the international classification.

Because the Ministry of Foreign Affairs has not yet terminated its study of the institutional and formal aspects of the draft Agreement, the observations set forth above deal only with the articles concerning the international classification for industrial designs. The Ministry reserves the possibility of making further observations on the institutional and formal aspects.

NORWAY

(June 5, 1968; Original: English; Document L/2)

[....]

The Norwegian Government has no comments to make on the system of classification of industrial designs as provided for in the Draft Agreement.

However, the Norwegian Government wishes to draw your attention to the fees which are to be paid for registration. It is essential that the system of classification in

different classes be not practised in such a way as to make the cost of registration prohibitive for applicants.

PHILIPPINES

(March 4, 1968; Original: English; Document L/2)

[...]

The Philippine Government has no objection to the general objective of the Draft Locarno Agreement Establishing an International Classification for Industrial Designs.

(August 27, 1968; Original: English; Document L/6)

[...]

The Philippine Government finds no ground for objection to the general objectives of the Draft Locarno Agreement on Industrial Designs.

The Philippine Government wishes, however, to reiterate that at present there is actually no immediate need to adhere to this Agreement Establishing an International Classification for Industrial Designs, in view of the negligible number of applications for design patents in this country. For the present, the Philippines has adopted the U.S. Classification System, which it finds more adequate to its present needs.

If and when the proposed International Classification is accepted by many countries, however, the Philippines will adopt the same. When its peculiar needs so warrant, it will then avail itself of the provision of Article 9 of the Draft Locarno Agreement.

Meanwhile, the Philippines may participate as an observer in the forthcoming conference to be convened by the Government of the Swiss Confederation at Locarno from October 2 to 8, 1968. The final decision on the matter will be communicated in due time.

SPAIN

(April 1, 1968; Original: Spanish; Document L/2)

[...]

The observations of the Registry of Industrial Property of the Spanish Ministry of Industry.

(1) As regards the note to paragraph 6 (document L/1), concerning the advantages of the international classification of industrial designs for the multiple deposits that will be made at the International Bureau in Geneva in pursuance of Article 5(4) of the Hague Act of 1960 (not yet in force), we would observe that Spanish legislation has shown itself to be even more restrictive in that it recognizes multiple deposits only for articles having the same purpose.

(2) Paragraph (3) of Article 2 of the Draft Agreement provides that the countries of this Special Union must include, in the official documents and publications concerning deposits or registrations of designs, the numbers of the classes and subclasses of the international classification into which the goods in which the industrial designs are incorporated fall.

According to the well-established practice followed at present by the Spanish Office, classification is made after registration and, consequently, the publication mentions only the registration. Under the circumstances, it might perhaps be advisable to have it reserved for the signatory countries to decide themselves whether, as far as they are concerned, the information concerning the classification is

to be mentioned in the documents and publications. However, should the Draft Agreement be approved as it stands, the interested parties should indicate the classes and subclasses in their applications for registration, it being understood that the technical services of the Spanish Office would, after having made their own classification, correct or alter such indications in the applications for registration.

(3) The reservation appearing in paragraph (4) of Article 2 of the Draft Agreement, which is copied from the one appearing in the Nice Agreement concerning the international classification used for marks, does not seem necessary to us, since terms appearing in the texts of industrial designs in no way involve any claim to rights. We admit, however, that it would be better to maintain this reservation so as to avoid any possible complaint on the part of the proprietors of word marks.

SWEDEN

(March 14, 1968; Original: English; Document L/2)

[...]

The competent Swedish authorities are of the opinion that the Draft Agreement and the list of classes and subclasses prepared by the Committee of Experts are well suited to serve as a basis for the work of the Locarno Conference.

UNITED STATES OF AMERICA

(May 15, 1968; Original: English; Document L/2)

The enclosed paper represents proposals for amendments to the 31 BIRPI classes for industrial designs, adopted by the Committee of Experts which met at Geneva from May 2 to 5, 1966.

This paper is submitted by the United States of America at the invitation of the Director of BIRPI.

The proposed changes, which are underlined, are the result of the classification of United States Design Patents into 8 of the BIRPI classes. Copies of the newly published Design classes resulting therefrom are enclosed.*

Many of the proposed changes are prompted by the large number of similar patents which would necessarily have to be included under one subclass title. Other large groups of similar patents are not specifically provided for, and additional subclass titles have been added.

The Government of the United States considers the administrative and substantive provisions as contained in the articles of the Draft Agreement to be generally acceptable. Though additional proposals or comments may be made at the Conference the following preliminary comments are offered at this time:

Article 3(4). It is questioned whether the need for unanimity is desirable under this Article providing for "amendments." The transfer of goods from one class to another under United States Design laws would have no effect on the rights of the owners of designs. Consideration might be given to changing the qualification from a unanimous vote to that of a majority.

It would seem desirable to amend the definition of "amendment" to provide for the possibility of amendment of explanatory notes.

Article 5(2)(b). It is possible that the Locarno Agreement might enter into force before the WIPO Convention. In this case, the Organization and the Coordination Committee

* Note by BIRPI: The annexes mentioned by the United States of America are not reproduced here, because proposals for amendment of the List of Classes and Subclasses are not to be examined by the Conference itself, such being, according to Article 1(6) of the Draft Agreement, a function of a Committee of Experts to be established.

to which reference is made in the Locarno Agreement would not have been established. Consideration might be given to the inclusion of some provision covering this eventuality, possibly along the lines of the provision of draft Article 15.

Article 13. Since the provisions on territorial application are in a different article in the Stockholm revision than in other revisions, it is suggested that the provisions not be referred to by article number. The words "of Article 24 of" could be replaced by the words "relating to territorial application in."

VENEZUELA

(May 21, 1968; Original: Spanish; Document L/2)

1. *Comments on the text of the Agreement*

Article 1. Article 1 states, in paragraph (4), that "the list of classes and subclasses is the one which was drawn up in 1966 by the Committee of Experts convened for that purpose by the Director of the United International Bureaux for the Protection of Intellectual Property."

If this wording is maintained, the list of classes and subclasses will already be drawn up with no possibility of amendment when the Locarno Conference meets. In our opinion, it would be better if the observations made during this inquiry could be taken into consideration by the new Committee of Experts which is to be elected by that Conference. This solution, or another taking into account the suggestions made by the countries now being consulted, requires that the wording of the said paragraph (4) of Article 1 should be more flexible and should read more or less as follows: "The list of classes and subclasses shall be drawn up on the basis of the classification established in 1966 by the Committee of Experts, etc. or by a similar committee."

As for paragraph 7(a) of the same Article 1, the Spanish language should also be included.

Article 2. Paragraph (4) of Article 2 of the draft states that "the fact that a term is included in the alphabetical list of goods in no way affects any rights which might exist in such a term."

Neither the above text nor the commentary on it (paragraph 37) is sufficiently clear. It is possible that this provision was intended to indicate that the fact that a term appears in the classification does not entail loss of its distinctive nature as a sign.

However, such a conclusion would be contrary to judicial logic, since a term used as the name of certain goods cannot retain the distinctiveness required for a mark. Consequently, [...] it would be useful to make the scope of paragraph (4) of Article 2 clearer by explaining it, or at least to submit for discussion the question of the possibility that the use of a term in the classification of goods causes it to lose its distinctiveness and might even constitute proof of its generic character.

Article 3. Paragraphs (1) and (2) of Article 3 deal with the required majority for the adoption of the rules of procedure and for the adoption of the alphabetical list and explanatory notes, respectively. Paragraph (1) speaks of a majority and paragraph (2) of a simple majority. In our opinion, the requirement is the same in both cases, i.e., a relative majority. For this reason, we should speak only of a relative majority so as to avoid any confusion. The same observation would apply to paragraph (5) of this Article.

Article 5. Article 5(3)(f) reads: "A delegate may represent only one country and may vote only in the name of that country." We are of the opinion that this provision should be deleted because there is no reason why two or more countries could not be represented by a single delegate. As a matter of fact, small States, or States the economic resources of which are limited, having certain common in-

terests, may very well appoint a single delegate to attend the Assembly, and this delegate would act as the representative of each country which has entrusted its representation to him. Such a delegate would thus be able to vote in the name of each country represented.

Paragraph (5) of the same Article states: "The Assembly shall adopt its own rules of procedure." This provision should be listed with the powers of a general nature which appear in paragraph (2) of the same Article.

2. *Comments on the list of classes and subclasses*

Considering the essentially technical nature of the classification, the latter can only be discussed by specialists in each branch. It would nevertheless be useful to make the following observation.

Class 2, concerning articles of clothing, including footwear, could not be applied in a system such as that of Venezuela where the law explicitly forbids the registration of industrial designs in respect of any sort of clothing. There would therefore not be the slightest application for this Class in a system such as ours. Moreover, item 08) of this Class lists "haberdashery" [in French: "mercerie"] which in our opinion more logically belongs in Class 5. As a matter of fact, the Spanish term "merceria" relates to small articles (pins, buttons, ribbons) used exclusively for sewing and should therefore be listed in Class 5.

One last observation concerning Class 8 where, alongside tools, hardware appears, which has nothing to do with tools and more logically belongs in Class 11.

[...]

INTERNATIONAL CHAMBER OF COMMERCE

(August 25, 1968; Original: French; Document L/4)

The text proposed by the United International Bureaux for the Protection of Intellectual Property (BIRPI) has elicited the following comments from the International Chamber of Commerce (ICC); some of them are general, while others deal with specific points.

1. *General Observations*

It was the intention of its authors that this Draft should fall within the framework of the Paris Union. In all events, it should be clearly stated that the said Agreement must in no way impair the protection afforded by national laws and international conventions, particularly with respect to the applied arts.

The Draft Agreement would institute a new and restricted Union, organized along lines which appear somewhat cumbersome: a Committee of Experts, in addition to an Assembly whose administrative tasks would be assumed by BIRPI and, further, special budgetary provisions covering the finances of the Union.

Since the purpose is to establish an international classification, it appears that this draft could be made more flexible by adoption of one or the other of the following two proposals:

(1) Definition of an international classification for designs and models which would become compulsory for all subscribing countries.

(2) Draft model classification as a basis for legislation in each country. Such a draft would be proposed to the States concerned, in the same way as draft model laws on patents and trademarks. Each country would reserve the right to make such amendments as appeared necessary in the light of its own national concepts in the matter. It would be advisable, however, that such changes be minimal since, as it must be remembered, the purpose is to facilitate search with the aid of a uniform classification.

It should be noted that while the second proposal would be more likely to encourage adhesions, the first seems preferable.

2. *Specific Observations*

These deal with two points :

A. *The wording of Article 2 of the Draft Agreement.* This text reproduces that of the classification for trademarks adopted in Nice. However, it is lacking in clarity and the situation which it concerns, that of designs and models, is not identical with that of trademarks.

Article 2 stipulates that the proposed classification could constitute a simple rational framework for the convenience of administrative filing but that it could also become binding upon the courts should the countries concerned so decide.

This alternative, by which a classification could be either administrative or legal, is liable to entail some distortion in systems of protection, to the detriment of the creators of designs and models, and it appears indispensable to confine the classification to strictly administrative purposes.

In the event that a classification of a legal nature were adopted :

- (a) Creators of designs and models would be in danger of being unprotected for uses other than those mentioned. A model, however—and especially a design—can be put to different decorative uses.
- (b) In order to acquire more extensive protection, creators would be obliged to resort to a number of classes and would thus, in financial terms, be heavily penalized.
- (c) Since this classification would be mandatory, the injury which could be caused by an error on the part of the applicant in the use of the nomenclature made available to him would be aggravated, especially if the classification appended to the Agreement were too extensive. It may be asked whether that which is proposed is not too complete.

From the above-mentioned considerations it appears to the ICC that the international classification for designs and models should be purely administrative. Its essential purpose should be to permit the facilitation of international search by lightening the task of the national authorities, without in any way affecting the extent of legal protection. This implies that in principle, lack of deposits in one or more given classes of goods could not deprive the owner of the design or model of the general protection to which he is entitled, particularly in the class or classes in which he has made no deposit.

B. *The classification.* While being sufficiently clear, the classification should, generally speaking, be confined to indicating products without going into superfluous detail.

A multiplicity of subclasses is liable to encourage the countries to charge additional fees, determined on the basis of the classes in which registration was applied for. This situation would be especially prejudicial to small enterprises, and to handicraft enterprises in particular, which include numerous creators of models. Consequently, the Agreement should prohibit such additional fees. If, however, certain subdivisions proved necessary and were liable to necessitate multiple deposits—or at least one deposit covering a number of classes or subclasses—a graded fee scale would have to be put into effect as from the second deposit or the second class or subclass involved.

Insofar as the list of classes proposed in the Draft Agreement would be used, experts specialized in the articles concerned should be called upon, but under no circumstances should they broaden the list.

Because of the advantages attaching to the new classification, each country could rule that deposits made prior to its entry into force in that country should be renewed

within a certain period, after expiration of which they would be deemed to have lapsed. This formality should entail no charge or, at most, only very limited costs.

INTERNATIONAL LEAGUE AGAINST UNFAIR COMPETITION

(International Association for the Study of Competition)
(May 8, 1968; Original: French; Document L/2)

[...]

The draft prepared by BIRPI seems in principle to be excellent. Certain amendments should be made, however, with a view firstly to making it really effective and secondly to avoiding any risk of debasing the rights of creators of designs.

To this end, observations may be made regarding the economy of the draft and certain of its aspects.

1. *General Remarks*

The Draft Agreement proposes the establishment of a Special Union within the framework of the Paris Union. Yet the planned organization of this new body seems rather cumbersome and complex, and it would seem better to keep to the essential objective being sought, that is, to the development of a new international classification pertaining to designs.

The Hague Agreement of 1960, not yet implemented, provides for an International Design Committee which, among other tasks, establishes the international design classification. Such a committee should suffice.

It would also be advisable for the protection granted under the Berne Union, particularly as regards the applied arts, to be clearly reserved, for example as is done in Article 18 of the Hague Agreement of 1960.

2. *Special Remarks*

It appears to be necessary to ensure that creators of designs will receive adequate protection and that imitators will be prevented from escaping all sanction in certain cases.

In this connection, it should be noted that Article 2 of the Draft Agreement takes up the text of the Nice Agreement concerning marks.

The field of designs is quite different, however, from that of marks. A model, and even more so a design, may in fact have a wide variety of decorative uses.

Article 2 provides that the international classification is not binding on the courts as regards the evaluation of the scope of protection of the design, but that each country nevertheless remains free to attribute a fuller scope to it.

Consequently, there is a risk that this interpretation, which may vary depending on the country, might cause differences to develop in the systems of protection. The depositors may thus find themselves constrained to make multiple deposits or to make one deposit in a number of classes or subclasses in order to be more effectively protected.

In cases where protection would thus be contingent on an indication of all of the classes or subclasses of the goods concerned, omissions might occur despite the care taken by the depositors. Infringers or imitators could thus take advantage of these oversights.

In any event, it would be advisable for the list of goods in the classification to be as simple as possible so as to avoid some sources of error, the classes being subject to a fee but not the subclasses (as the latter appear only for explanatory and administrative reasons).

**INTERNATIONAL LITERARY AND ARTISTIC
ASSOCIATION**

(May 15, 1968; Original: French; Document L/2)

[....]

*Resolution Relating to the Draft International Convention
Concerning an International Classification for Designs*

*Locarno (October 1968) passed by the General Assembly of
April 23, 1968*

The ALAI General Assembly, having taken cognizance of the draft for the setting up of an international classification for industrial designs which will be submitted to the Diplomatic Conference of Locarno in October 1968, appreciates the full interest thereof and presents the following observations to the attention of BIRPI.

(1) The planned classification cannot offer any serious advantages for two-dimensional designs which, unlike models, are used to decorate the widest possible variety of objects. The same design can be used just as well for the ornamentation of a porcelain dinner or dresser set as for curtain material, or just as well for a tablecloth as for a woven fabric, that is for articles which would appear in separate classes.

(2) The planned structural organization, comprising a Special Union, seems cumbersome and onerous; a simpler system should be devised within the framework of the Paris Union, the essential machinery consisting of the Committee of Experts entrusted with modifying or adding to the classification and establishing the alphabetical list of goods as well as the explanatory notes.

(3) The scope of the classification should be made more explicit, for Article 2 leaves some doubt. It seems to mean that the signatory countries would have a choice: either to impart a purely administrative character to the classification, or to recognize that the depositors will obtain protection for their designs only in respect of those classes in which the deposit has been made. This choice would result in a disparity of regime and would justify the application of the rule of reciprocity so that nationals of countries which decide to give the classification a legal effect will not benefit from a protection that is independent of the classes selected in countries which keep to a purely administrative classification. Moreover, the proposed instrument should respect Article 2, paragraph (7), of the Berne Convention, as revised at Stockholm, which allows national legislations to apply, subject to reciprocity, the artistic property statute to industrial designs.

(4) The draft contains a great many classes and sub-classes: the amount of fees should not be so high that creators of modest means, artisans in particular, are unable to pay them.

**PROPOSED AMENDMENTS
TO THE DRAFT AGREEMENT
PRESENTED DURING
THE CONFERENCE**

DOCUMENTS L/7, L/8, L/9

ITALY

(October 2, 1968; Original: French; Document L/9)

The Italian Delegation proposes the following text for Article 2, paragraph (1): "Subject to the requirements prescribed by this Agreement, the international classification shall be of a solely administrative character and the effect thereof shall be that attributed to it by each country of the Special Union. In particular, the international classification shall not in any way affect the nature and extent of the protection afforded to the design in the countries of the Special Union."

UNITED STATES OF AMERICA

(October 1, 1968; Original: English; Document L/7)

The United States Delegation proposes the following amendments to *Article 1*:

Paragraph (4)—Delete the text of this paragraph in its entirety.

Paragraph 5—Amend as follows:

After the word "The" and before the word "alphabetical" insert—"list of classes and subclasses, the."

At the end of this paragraph add the following sentence: "The list of classes and subclasses shall be based upon the one which was drawn up in 1966 by the Committee of Experts convened for the purpose, subject, however, to such adaptations and improvements which are deemed desirable as a result of the experience which has been gained from using it."

Change the number of paragraphs (5), (6) and (7), to (4), (5), and (6) respectively.

Paragraph (5), which is now *renumbered paragraph (4)*, reads in its entirety as follows: "(4) The list of classes and subclasses, the alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts set up under Article 3, in accordance with the procedure laid down in that Article. The list of classes and subclasses shall be based upon the one which was drawn up in 1966 by the Committee of Experts convened for that purpose subject, however, to such adaptations and improvements which are deemed desirable as a result of the experience which has been gained from using it."

Comments: The proposal contained in document L/1 is to adopt the list of classes and subclasses as drawn up in 1966 without further change. The proposed United States amendment would leave the entire classification up to a decision by the Committee of Experts to be appointed, which decision by the Committee could also be based upon the advice and recommendations of the provisional Committee of Experts to be set up by a resolution. This proposal seems to be desirable from experience gained by the U.S. Patent Office in the reclassification of our design patent search file.

The provisional Committee of Experts is to prepare a draft of the alphabetical list of goods and of the explanatory notes for the International Bureau and the Committee of Experts established by Article 3. In addition, the provisional Committee may also submit drafts of changes in the list of classes and subclasses. On the basis of the United States experience, it is possible that the provisional Com-

mittee will make proposals for changes in the classes and subclasses. In any event, the Committee of Experts should clearly have the responsibility for adopting not only the alphabetical list of goods and explanatory notes but also the list of classes and subclasses. In addition, the Committee should have the responsibility for making changes in the classes and subclasses, if such changes are necessary as a result of experience of countries. The Committee should consider and approve the classes and subclasses before it proceeds to consider the alphabetical list of goods and explanatory notes.

The proposed amendment preserves the view of the Conference that the design classifications should indeed be based on the 1966 text.

The change which is proposed by the United States Delegation would also be of advantage to countries which may wish to proceed with their classification work pending ratification of the Agreement.

If, as is proposed, a provisional Committee of Experts is promptly set up, the work of this Committee would logically proceed in the following order:

1. Settle on a draft list of classes and subclasses with definitions which set forth the needs and bounds of each category using as a basis (a) the 1966 list; and (b) the experience of other countries in the reclassification further pursuant to the 1966 text.
2. Prepare the draft alphabetical index.
3. Submit the results to the Committee of Experts as soon as the Agreement comes into force.

The United States Delegation proposes the following amendments to *Article 2*:

Paragraph (4)—Delete the text of this paragraph in its entirety and substitute the following: "In selecting terms for inclusion in the alphabetical list of goods the Committee of Experts shall exercise reasonable care to avoid using terms in which proprietary rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to proprietary rights."

Comments: As was pointed out by the Government of Venezuela in their communication to BIRPI dated May 21, 1968, the mere disclaimer in the Treaty would not be persuasive enough to remove an implication that the terms included in the index were generic terms rather than terms in which proprietary rights existed. Therefore, it is believed desirable to take appropriate care to avoid such problems and to disclaim that inclusion of a term in spite of this precaution has the force of an opinion as to the known existence of the proprietary rights.

Thus, the inclusion of a reference to "Scotch tape dispensers" would be clearly wrong and should be avoided. But if such an error were made, the best that can be done is to make it clear that its inclusion does not constitute an opinion that "Scotch" is generic for cellophane tape.

The United States Delegation proposes the following revisions in *Article 3*:

Paragraph (2)—Revise the text of this paragraph as follows (new wording is underlined): "(2) The Committee of Experts shall adopt the list of classes and subclasses, the alpha-

betical list, and the explanatory notes by a *two-thirds* vote of the countries of the Special Union."

Paragraph (4)—Substitute the following text for the BIRPI text: "(4) Except as provided in paragraph (5), amendments to the international classification shall be made by a simple majority vote of the Committee of Experts."

Paragraph (5)—Substitute the following text for the BIRPI text: "(5) Amendments to the international classification which involve the creation of a new class or transfer of goods from one class to another shall be made by a two-thirds vote of the Committee of Experts."

Paragraph (6)—Substitute the following text for the BIRPI text: "(6) Each expert shall have the right to vote by mail."

Comments: Re paragraph (2)—It is believed that "the list of classes and subclasses" should also be left for decision by the Committee of Experts rather than adopting the list drawn up in 1966 without change. This is in accord with the United States proposal concerning Article 1(4). Further, it is believed that the decision of the Committee of Experts adopting the international classification should be by "a two-thirds vote" rather than by a simple majority. Thus, the action of the Committee of Experts under Article 3(2) will be an important action, the adoption of the international classification on the basis of the work and recommendations of the 1966 Committee of Experts. Such action might well involve changes in the classes from the one drawn up in 1966 and would also be likely to involve the transfer from one class to another of the 1966 list.

Re paragraphs (4) and (5)—It is the view of the United States of America that the BIRPI proposal for unanimity in paragraph (4) seems too stringent. The unanimity rule appears to be based upon the possibility that changes involving transfers of goods between classes might have legal implications. We question whether such legal implications exist in the case of classifications for industrial designs. Certainly, industrial designs can be distinguished from trademarks where a change in trademark classification can have legal implications.

Irrespective of the concern that such transfer of articles between classes might have legal implications, the United States proposal would retain a weighted majority rule (a two-thirds vote) for any amendment which would involve the creation of any class or the transfer of goods from one main class to another. The United States proposal would require merely a simple majority for all other amendments.

The United States of America believes the proposed amendment would be much easier to apply and would be more desirable in the interest of the most effective operation of the international classification system.

Re paragraph (6)—The United States of America is of the view that it is not desirable to delegate expertise in the manner proposed in paragraph (6). The amendment offered by the United States of America would give the expert from any country the right to vote by mail. It is believed that in most instances amendments to the international classification would be stated in sufficient clarity in working papers circulated in advance of the meeting to enable an expert to submit his vote *in absentia* on such questions. Further, it is believed that the word "opinion" is vague and could lead to misunderstanding as to whether an expert voted for or against an amendment of the international classification.

UNITED STATES OF AMERICA

(October 2, 1968; Original English; Document L/8)

Proposal for *Article 1*

The United States Delegation proposes that in Article 1, paragraph (2), line 1, the word "adopt" be deleted and the following phrase be substituted for it "agree that there shall be established, as provided herein."

Paragraph (2) would then read as follows: "They agree that there shall be established, as provided herein, a single classification for industrial designs (hereinafter designated international classification')."

**PROPOSED DRAFT AGREEMENT PREPARED
FOR THE DRAFTING COMMITTEE**

PROPOSED DRAFT AGREEMENT PREPARED FOR THE DRAFTING COMMITTEE *

(October 3, 1968; Original: French; Document L/CR/1)

Locarno Agreement establishing an International Classification for Industrial Designs [of goods in which industrial designs are incorporated]

Article 1

Establishment of a Special Union; Adoption of an International Classification

- (1) No change.
- (2) No change.
- (3) The international classification shall comprise :
 - (i) a list of classes and subclasses ;
 - (ii) an alphabetical list of goods *in which industrial designs are incorporated*** with an indication of the classes or subclasses into which they fall ;
 - (iii) explanatory notes.
- (4) The list of classes and subclasses is the list (...) *annexed to the present Agreement, subject to such amendments and additions which the Committee of Experts set up under Article 3 (hereinafter designated as "the Committee of Experts") may make to it.*
- (5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts (...) in accordance with the procedure laid down in *Article 3.*
- (6) The international classification may be amended or supplemented by the Committee of Experts (...) in accordance with the procedure laid down in *Article 3.*
- (7)(a) No change.
- (b) No change.

Article 2

Use and Legal Scope of the International Classification

- (1) Subject to the requirements prescribed by this Agreement, (...) *the international classification shall be of a solely administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries.*
- (2) No change.
- (3) The Offices of the countries of the Special Union shall include in the official documents (...) *concerning deposits or registrations of designs, and if they are published in the publications in question, the numbers of the classes and subclasses of the international classification in which the goods incorporating the designs belong.*
- (4) *In selecting terms for inclusion in the alphabetical list of goods, the Committee of Experts shall exercise reasonable*

care to avoid using terms in which proprietary rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to proprietary rights.

Article 3

Committee of Experts

- (1) A Committee of Experts *shall be entrusted with the tasks referred to in Article 1(5) and (6). (...) Each country of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a majority of the countries represented.*
- (2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a (...) majority of the votes of the countries of the Special Union.***
- (3) No change.
- (4) *The decisions of the Committee of Experts concerning the amendments and additions to be made in the international classification shall be adopted by a majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required.*
- (5) Deleted. The former paragraph (6) now becomes paragraph (5) which reads as follows : *Each expert shall have the right to vote by mail.*
- (6) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed does not *notify his vote* within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

Article 4

Notification and Publication of the Classification and of amendments and additions thereto

- (1) No change.
- (2) The International Bureau, as *depository* of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of such amendments and additions shall be published in the periodicals, "Industrial Property," "La Propriété industrielle," "La Propiedad Intelectual," and "Les Dessins et Modèles internationaux."

* *Editor's Note* : The text of the Draft Agreement which resulted from the work of the Drafting Committee was approved without change by the General Committee and by the Plenary.

** *Editor's Note* : The parts of the text printed in italics represent amendments and additions to the text of the Draft Agreement appearing in document L/1.

*** The Italian Delegation proposed the deletion of the words "the countries of the Special Union."

Article 5**Assembly of the Special Union**

- (1) No change.
- (2)(a)(i) to (v) No change.
 - (vi) decide on the establishment of official texts of the international classification in languages other than English and French;*
 - (vii) establish, in addition to the Committee of Experts *set up under* Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union ;
 - (viii) No change.
 - (ix) No change.
 - (x) No change.
 - (xi) No change.
 - (b) No change.
- (3)(a) to (f) No change.
- (4)(a) to (c) No change.
- (5) No change.

Articles 6 to 13

No change.

Article 14**Signature, Languages, Notifications**

- (1)(a) No change.

- (b) This Agreement shall remain open for signature at Berne until *June 30, 1969*.

- (2) to (5) No change.

Article 15. No change.

Proposed Resolution

- (1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs. (...)
- (2) This provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1(5) of the Agreement. (...) *It shall also re-examine the list of classes and subclasses annexed to the present Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list.*
- (3) The International Bureau shall prepare the work of the *provisional* Committee and shall convene it as early as possible.
- (4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.
- (5) The travel subsistence expenses of the members of the provisional Committee (...) shall be borne by the countries which they represent.

* The Delegate of Luxembourg proposed to add to Article 2(a)(vi) a reference to Article 1(7)(b).

SUMMARY MINUTES

OPENING MEETING OF THE CONFERENCE

Chairman : Mr. L. von Moos

Wednesday, October 2, 1968, at 10 a.m.

OPENING SPEECHES OF THE CONFERENCE

1.1 Mr. von Moos (Federal Counsellor, Head of the Federal Department of Justice and Police) declared open the Diplomatic Conference of Locarno Concerning a Classification for Industrial Designs, and delivered the following speech :

1.2 "I have the great honor to extend to you a warm welcome to our country. I thank your Governments, Ladies and Gentlemen, for having given a favorable response to the invitation of the Swiss Federal Council, and I am pleased to observe that this Conference has brought together such a large number of eminent diplomats and distinguished specialists in the field of industrial property.

1.3 This favorable echo is an encouragement to us to pursue our current policy. Switzerland, as you know, is a neutral country. We have never had the intention, however, of taking refuge behind this neutrality and enclosing ourselves within walls of self-interest; we have never wished to remain blind and deaf to the problems which shake the modern world. On the contrary, our wish has always been to take an active part in works of international cooperation and to make our contribution, however small, wherever we can. Moreover, it is our very neutrality that enables us to render special services on certain occasions.

1.4 In this connection we are pleased and proud to accommodate a large number of important international organizations. I shall take the liberty of saying, however, that the United International Bureaux for the Protection of Intellectual Property are the object of our special attention. BIRPI has been established on our territory for more than 80 years now, 80 years during which the Federal Council has had the honor to be its supervisory authority and to administer the principal Intellectual Property Conventions, and during which profitable collaboration, in a spirit of mutual confidence, has developed between the Unions and the United International Bureaux for the Protection of Intellectual Property on one hand, and the Swiss authorities on the other. It is true that this situation will soon be changing as a result of the important acts which were adopted in Stockholm last year. The traditional Intellectual Property Unions will soon have at their head a modern intergovernmental organization; soon the Assemblies of member States will be the sovereign power. This is a change in the spirit of the times which we ourselves encouraged, and we are pleased that the aim will soon be achieved. From then on the World Intellectual Property Organization, the Unions and the International Bureau of Intellectual Property will no longer need either our supervision or our administration, but they will always be able to count on our hospitality and support.

1.5 We too attach special importance to the International Conventions on Intellectual Property. One of the most important bears the name of our capital, which witnessed its creation in 1886, and in a few days, we hope, another will be given the name of the little town where we are gathered together today. We know how important the protection of intellectual property is as a stimulant and reward for creative effort, which is the source of both moral and material progress. It is true that industrial designs are not considered to be the most important aspect of in-

tellectual property. Yet they have a special part to play in the life we are living. This age of technology and mass-production might degenerate and become an age of dull, lifeless uniformity if it were not for these artists, these poets in their special field, who preserve beauty in industry and give aesthetically pleasing shapes to everyday articles.

1.6 That explains why, when the Executive Committee of the Paris Union asked us, in the autumn of 1966, to be the host country to a Diplomatic Conference for the elaboration and adoption of a special Agreement on an international classification for industrial designs, we gave a particularly favorable welcome to the request. The classification of industrial designs is admittedly not as important as the classification of patents or marks. It is essential, however, for searches for anticipation, and for this reason contributes greatly to the security of the law in the field of designs. But does it call for a diplomatic instrument? Some have doubted this. The United International Bureaux for the Protection of Intellectual Property and interested States could certainly establish classifications of their own. But why do something ten, twenty, fifty times separately, when it is much more rational to do it once, together? Why have dozens of different systems when it is possible to have a single system, and perhaps a better one at that? This appears to me to be significant in the context of the Convention which, we hope, will be drawn up here. It will not come into being under the influence of political or even economic pressures, but rather as a result of the happy realization that, even in essentially administrative spheres of activity, international cooperation is preferable to the dispersal of efforts, that it generally helps to achieve better results more easily. Thus it is that this Conference of Locarno acquires a special significance, over and above the actual subject matter it will deal with, in the field of collaboration among States.

1.7 Your Excellencies, Ladies and Gentlemen, Switzerland is pleased to welcome you. We know that you have come here in the desire to add a new stone to the industrial property edifice, filled with this spirit of international cooperation which seems to flourish in your gatherings more than anywhere else. For our part we have endeavored to choose a setting which will enable you to work effectively in an atmosphere of calm. I hope that to this extent we have made a contribution to the work which lies before you. We are already rewarded by your presence, and shall be all the more when your work results in what we are already calling 'the Locarno Agreement'."

2.1 Mr. SPEZIALI (Syndic of Locarno) gave the following address :

2.2 "This second Locarno Conference—although its aspirations are more modest and its aims concrete and clearly defined—reaffirms the desire of our Commune to respond to desires like those which then and now are the same: not to shut oneself up in one's own affairs, but rather to take an interest in those of the whole world, not so much to voice an opinion, which obviously would lack force and authority, as to hear the ever more numerous voices of the representatives of the whole world.

2.3 The Locarno Conference which is about to start, with the aim of elaborating a Convention on a Classification for

Industrial Designs, reminds the communal authorities and the people of Ticino of the far-off year 1925, when a meeting of Heads of State of the main European powers had a resounding effect throughout the world, leaving its mark on history and building up so many hopes, most of them later dashed by resurgent nationalism, and which gave Locarno worldwide recognition which has stood the test of time; this new Conference brings back the memories of its predecessor.

2.4 Then it was a question of difficult and complex dealings between victors and vanquished, still unable to reconcile individual views and interests in such a way as to collect the essential components of political stability and peace.

2.5 Today the situation is different: the Conference will not have so perilous a path to follow, even though international agreements—if they are to last—must reflect the opinion of either the totality or at least the great majority of the States; the result of this work will be a Convention which will take the name of Locarno and place it on a level—speaking of Switzerland—with those of the famous cities of Berne and Geneva.

2.6 Now as then, the Commune of Locarno extends a respectful welcome to the distinguished representatives of the States attending the Conference, and expresses the sincere wish that the work may be performed in tranquillity and rewarded with good results."

3.1 Mr. BODENHAUSEN (Director of BIRPI) delivered the following speech:

3.2 "At the opening of the Diplomatic Conference of Locarno which has been convened to adopt, within the framework of the Paris Union, a new Special Agreement which will establish an international classification for industrial designs, I should like first of all, in my capacity as Director of the International Bureau and on behalf of the Intellectual Property Unions administered by BIRPI, to express my sincere gratitude to the Government of Switzerland which has kindly accepted the responsibility for convening this Conference. Once more, Switzerland, by agreeing to be the host country for the Conference, has generously demonstrated its support of the Unions which have already benefited so many times from its devotedness and benevolence toward the International Bureau which it welcomes on its territory and the present development of which is due to a great extent to its efforts.

3.3 I also extend my heartfelt thanks to the City of Locarno and to the Authorities of Ticino who have made it possible for all the delegates present here today to gather in a locality favored by nature, in a pleasant and harmonious setting that inspires us to positive reflection rather than useless opposition and pervades our minds with the wisdom of constructive work. I am confident that the atmosphere of Locarno will be beneficial to our work.

3.4 I should also like, particularly, to say to the distinguished Chairman of the Board of Directors of the Supracenerina Electric Company and to all members of the Board just how grateful I am to them for welcoming us to the headquarters of their Company. They have been so kind as to provide us with the use not only of this elegant meeting room but also of a good number of other offices required for the services of the Conference. I am fully aware of the inconvenience they have thrust upon themselves and which

they accept so willingly, and I wish to express my gratitude to them. Moreover, is it not symbolic that a Conference dealing with industrial designs should meet in a place where, from the moment the visitor steps inside, he can see art combined with industry?

3.5 Gentlemen, the Agreement, the draft of which is now submitted to you for study, is intended to become part of those technical agreements the usefulness—not to say the necessity—of which has been proved by experience in the field of industrial property, and this is true not only in the interest of the Administrations which apply the International Conventions or national laws but also in the interest of all those who benefit from those Conventions and laws. It has been demonstrated that such agreements, in order to be fully effective, should take the form of diplomatic instruments concluded between States, and it is for this reason that the international patent classification and the international classification concerning trademarks, in particular, could not be fully effective until they were supported by such an instrument. Although the situation is not quite the same with industrial designs as with patents and trademarks, it is a fact that there are national classifications in respect of designs in a great many countries, and, according to the users themselves, these classifications are not fully satisfactory and require amendment and completion. It is clear that it is in the interest of all for this task to be accomplished on an international level, and this is why the Executive Committee of the Conference of Representatives of the Paris Union, taking into consideration the conclusions of two Committees of Experts which met at the BIRPI headquarters, recommended that this Conference should be convened.

3.6 There is no question, and I wish to stress this, of altering in any way whatever the substantive clauses of international or national legislation on industrial designs. It is not even a matter of establishing an entirely new classification where none existed previously. The aim is merely to unify already existing classifications by improving them, thus establishing a complete up-to-date classification which can also be used by States not possessing a classification for industrial designs and which may consider that it is necessary to adopt one. To avoid any doubt in this respect, a special clause provides that no legal effect is attributed to this classification; everything will depend on the national legislation already in force or on future legislation. Such is the basic aim of the draft Agreement which attempts to reproduce the wording adopted by the Committees of Experts, which is, of course, always subject to improvement. As to the provisions relating to the organization of the Special Union which will establish the system for the international classification, these are the same as those which were adopted at Stockholm for all Conventions and Agreements administered by BIRPI.

3.7 It seemed to me appropriate, as an introduction to the work of this Conference, to make these preliminary remarks. It now remains for me to renew my thanks to you, Mr. Federal Counsellor, to the Syndic of Locarno and to the representatives of the cantonal authorities, and to express the wish that we may reach, within the limited time allotted to us, a result fully satisfactory to all concerned. You may rest assured that the Director of BIRPI and his collaborators will make every effort to achieve this aim."

The Opening Meeting rose at 10:30 a.m.

PLENARY OF THE CONFERENCE

Acting Chairman : Mr. G. H. C. BODENHAUSEN (Director of BIRPI)

Chairman : Mr. J. VOYAME (Switzerland)

Secretary General : Mr. Ch.-J. MAGNIN (Deputy Director of BIRPI)

Rapporteur General : Mr. W. M. J. C. PHAF (Netherlands)

FIRST MEETING

Wednesday, October 2, 1968, at 11 a.m.

4. Mr. BODENHAUSEN (Director of BIRPI) was Acting Chairman.

ELECTION OF THE CHAIRMAN OF THE CONFERENCE

5. The ACTING CHAIRMAN invited the delegates to nominate candidates for election as Chairman of the Conference.

6. The Delegate of FRANCE nominated Mr. Voyame (Switzerland).

7. The Delegates of ARGENTINA, IRELAND and the NETHERLANDS seconded this nomination.

8. The ACTING CHAIRMAN asked whether there were other nominations. As there were none, he asked the Assembly whether a vote was necessary. As a vote was not requested, the Acting Chairman declared *Mr. Voyame elected Chairman of the Conference by acclamation*. The Acting Chairman invited Mr. Voyame to take the chair.

9. Mr. VOYAME (Switzerland), taking the chair, thanked the Assembly for the honor bestowed on his country and himself. He declared that the excellent preparation of the Draft Agreement by BIRPI, as well as the observations made by Governments, would facilitate his task. He thanked one and all.

ADOPTION OF THE RULES OF PROCEDURE

10. The CHAIRMAN noted that the next item on the draft agenda was adoption of the Rules of Procedure contained in document L/3. He felt that the Draft Rules could be adopted in their entirety, without going into details. The Assembly agreed.

11. The Delegate of AUSTRIA, however, wished to point out a possible divergence between Articles 2 and 9. He wondered whether it was clearly understood that Delegates of Governments which had already submitted proposals would not be required to present them again in writing.

12. The CHAIRMAN said that this would indeed be the case.

13. *The Rules of Procedure were adopted.*

ELECTION OF THE VICE-CHAIRMEN OF THE CONFERENCE AND OF THE RAPPORTEUR GENERAL

14. The CHAIRMAN proceeded to the next item on the agenda: election of the Officers of the Conference. He called for nominations of three Vice-Chairmen and a Rapporteur General.

15. The Delegate of the UNITED STATES OF AMERICA nominated Mr. Laurelli (Argentina), Mr. Tasnádi (Hungary) and Mr. Ghazzi (Tunisia) as Vice-Chairmen and Mr. Phaf (Netherlands) as Rapporteur General.

16. The Delegates of CZECHOSLOVAKIA, SWEDEN and SPAIN seconded those nominations.

17. The CHAIRMAN called for other nominations. As there were none, he declared *Mr. Laurelli, Mr. Tasnádi and Mr. Ghazzi elected Vice-Chairmen of the Conference and Mr. Phaf elected Rapporteur General by acclamation*.

ESTABLISHMENT OF THE CREDENTIALS COMMITTEE

18. The CHAIRMAN opened nominations to the Credentials Committee. He proposed that the Assembly should simply put forward the names of countries, the Delegations of which could then, by themselves, designate their member of the Credentials Committee.

19. *It was so decided.*

20. The CHAIRMAN proposed that the Credentials Committee be composed of Delegates of the following countries: Finland, Germany (Federal Republic), Italy, Soviet Union, Switzerland, Uruguay.

21. *It was so decided.*

ESTABLISHMENT OF THE DRAFTING COMMITTEE

22. The CHAIRMAN noted that members of the Drafting Committee still remained to be nominated. He proposed that the same method be followed as for the Credentials Committee, that is to say, designation by the Assembly only of the countries, which would then name the Committee members. The following countries were proposed: Belgium, Czechoslovakia, France, Ireland, Kenya, Switzerland, United States of America.

23. As no other proposal was made, *the Chairman's proposal was adopted.*

24. All items on the agenda having been covered, the CHAIRMAN declared the Conference would sit as a General Committee. The General Committee would meet at 3 p.m.

The meeting rose at 11:20 a.m.

SECOND MEETING

Monday, October 7, 1968, at 3 p.m.

ORGANIZATION OF WORK

25. The CHAIRMAN declared the second Plenary Meeting open. He stated that the Conference would be called upon to examine two documents: the General Report by Mr. Phaf and the Report of the Credentials Committee. The Chairman added that these documents would not be available for some ten minutes and he therefore proposed a short adjournment until their distribution.

The meeting was suspended and resumed at 3.20 p.m.

CONDOLENCES EXPRESSED TO THE BELGIAN DELEGATION

26. The CHAIRMAN had sad news to announce to the Conference. The Belgian Ambassador to Berne, Mr. I. Coppieters t'Wallant, who was to have headed the Belgian Delegation to the Conference but had, at the last moment, been prevented by illness from coming to Locarno, had passed away the previous evening. He expressed his condolences to the Belgian Delegation and requested all those present to rise and observe a minute of silence.

27. *This was done.*

REPORT OF THE CREDENTIALS COMMITTEE

28. The CHAIRMAN gave the floor to Mr. Schönfeld, Chairman of the Credentials Committee.

29. Mr. SCHÖNFELD (Chairman of the Credentials Committee) gave his report orally.*

30. The CHAIRMAN asked whether any of the delegates wished to make observations on the Report of the Credentials Committee.

31. As no observations were made, the CHAIRMAN declared *the Report to be adopted*.

CHANGE IN THE VICE-CHAIRMANSHIP

32. The CHAIRMAN recalled that during the meeting of the General Committee he had stated that he would ask the Plenary Meeting to elect Mr. Ben Slimane one of the Vice-Chairmen of the Conference in place of Mr. Ghozzi, who was to have been a member of the Tunisian Delegation but who had not been able to come to Locarno.

33. *The Conference agreed to the Chairman's proposal.*

GENERAL REPORT

34. The CHAIRMAN asked the delegates whether they had observations to make on the General Report of Mr. Phaf. Following comments expressed in the General Committee, a corrigendum and addendum had been made. These two supplementary documents had been distributed to the delegates.**

35. The RAPPORTEUR GENERAL proposed adding, at the end of paragraph 55 of his Report, the words: "This amendment was accepted."

36. *It was so decided.*

37. As no delegates wished to speak, the CHAIRMAN noted that *the General Report, including the addendum and cor-*

rigendum, had been adopted and warmly thanked its author, Mr. Phaf.

ADOPTION OF THE AGREEMENT AND RESOLUTION

38. The CHAIRMAN stated that the Conference should proceed to the question of adoption of the Agreement and Resolution. He proposed that the Conference should examine each Article of the Agreement separately.

39. As no observations were made on the Agreement, the CHAIRMAN declared *the Agreement to be adopted*.

40. The CHAIRMAN proceeded to the question of examination of the Resolution and proposed amending its title. A decision had been taken in the General Committee to add, after the word "Resolution," the words "adopted by the Conference of Locarno on October 8, 1968." The Chairman pointed out that this was a mistake, as the Resolution was being adopted on October 7. Only signature of the Agreement would take place on October 8. The Resolution itself would not be signed. Its date of adoption would indeed be October 7.

41. *The Conference agreed to this amendment and adopted the Resolution with the amended title.*

42. The CHAIRMAN was pleased that the Conference of Locarno had completed its work with success and that all of the instruments proposed had been adopted unanimously. He thanked the delegates.

43.1 Mr. WINTER (United States of America) made the following statement:

43.2 Mr. Chairman, I wonder if I might make a few remarks at the end of this most successful Conference. Here in Locarno, during the past seven days, we have been meeting here in this beautiful city. Fortunately, the delegates have had some free time to enjoy the scenic beauties of this region. Unfortunately, the Secretariat has had to work most of the time. The results of the Secretariat's work, however, can be seen in the excellent documentation that has been available to all of us during the Conference and I believe we should all express our thanks to the Secretariat for this work. In 1925 the famous Disarmament Conference was held here. 43 years later, another Conference dealing with a more pleasant subject, "industrial designs," has also been held in Locarno. We believe that this Agreement will make a real contribution in this field. We also believe the fact that we have concluded such a fine Agreement is due to a large extent to the excellent preparatory work of Professor Bodenhausen's staff and our profound thanks are due to him and the BIRPI staff. I think unquestionably we should also express our deep appreciation and thanks to Mr. Magnin as Secretary General of this Conference. This will be his last conference as a member of the BIRPI Secretariat. He is finishing his career with BIRPI with the achievement of this Agreement, the Locarno Agreement. Words are not sufficient, Mr. Chairman, to express our gratitude to your Government for the fine arrangements that they have made for this Conference. It will be a long time before any of us forgets the many courtesies extended to us as delegates to the Locarno Conference. Our trip on Saturday, just to mention one thing, was something that many of us will sit back in years to come and reminisce about: a most pleasant day, and one which we will never forget. Finally, Mr. Chairman, particular thanks should be extended to you as Chairman of the Locarno Conference. Once again you have demonstrated your proficiency as an important conference official, to mention only a few as Rapporteur General of Main Committee V at the World Intellectual

* Editor's note: The text of this report is reproduced on page 107 of this work.

** Editor's note: Document L/11/Corr. is not reproduced in these Records. The corrections of a purely editorial nature which were proposed in that document and adopted by the Assembly were incorporated in the text of the Report (document L/11).

Property Organization Conference of Stockholm and as Chairman of some of its difficult preparatory meetings and of the significant Patent Cooperation Treaty. You did such fine work here in Locarno that you have brought our work to a successful conclusion of the establishment of the first international classification in the industrial design field. We are of course sad to lose you as Head of the Swiss Intellectual Property Office, and that means that your talents will no longer be available to us for conference work but we are happy that you are going to BIRPI and we will gain the benefit of your talents there. We are sure that you will play a most important role in the future WIPO. Again, Mr. Chairman, I believe that all other delegations wish to express their sincere thanks to you for this Conference.

44. The CHAIRMAN thanked Mr. Winter for his kind words. He reminded the delegates that the farewell dinner would take place that evening, at 8 p.m., in the La Palma Hotel, and that the Agreement would be signed the following day

in the Conference Hall, beginning at 2 p.m.. The Delegations would be summoned according to the names of their countries in French alphabetical order. He requested any delegations which, for compelling reasons, had to leave Locarno early in the afternoon, to advise the Secretariat. He felt there would be no objection if such delegations were allowed to sign the Agreement ahead of the other delegations. It did not seem to him that such a step would amount to a serious breach of protocol.

45. Once again thanking the delegates, the Vice-Chairmen, the Chairman of the Drafting Committee, the Chairman of the Credentials Committee, the Rapporteur General, the Director of BIRPI, the Secretary General and all the officials who had worked towards the success of the Conference, the CHAIRMAN declared the second Plenary Meeting as well as the Conference of Locarno to be closed, with the exception of signature formalities.

The meeting rose

GENERAL COMMITTEE

Chairman : Mr. Joseph VOYAME (Switzerland)

Secretary General : Mr. Ch.-L. MAGNIN (Deputy Director of BIRPI)

Rapporteur General : Mr. W. M. J. C. PHAF (Netherlands)

FIRST MEETING

Wednesday, October 2, 1968, at 3 p.m.

EXAMINATION OF THE DRAFT LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS (*Document L/1*)

46.1 The CHAIRMAN opened the meeting with certain explanations concerning the deposit of credentials and the conditions under which observers from non-governmental organizations might take part in the discussions. He stated that a revised text of the English version of document L/1 had been distributed.

46.2 He invited the delegates to begin the general discussion by considering, firstly, the usefulness of an international classification for industrial designs, secondly, the need to set up a new "Special Union" or the possibility of employing other methods, and, thirdly, all other general questions.

47. The Delegate of SPAIN felt that it was important to establish a classification for industrial designs with a view to searches for anticipation and for the purpose of all other information concerning industrial designs. He pointed out that in Spain there was but one classification applied to patents and industrial designs. Spain had adopted the International Classification of Patents for Invention established by the Council of Europe. A classification for industrial designs remained to be established. Spain was making provisional application of the classification adopted by the experts under BIRPI auspices. Spain was therefore highly interested in the formal establishment of the classification by the Conference and in its subsequent supplementation and possible modification.

48.1 The Delegate of the UNITED STATES OF AMERICA congratulated the Chairman on his election and paid tribute to the high quality of the documentation prepared for the Conference by BIRPI.

48.2 He said that his Delegation shared the Spanish Delegation's views on the desirability of a uniform international classification for industrial designs. The aesthetic aspect of industrial manufactures was important for various reasons : for example it could reflect the national origin of an article and enhance its sales appeal. The recording of the industrial designer's proprietary rights in his creation, and the retrieval of that information, should be the subject of a uniform system. Under the intellectual property legislation of the United States of America, designs were investigated for novelty and non-obviousness, so that the existence of a classified grouping of all previous patents was necessary. Since 1966, the United States Patent Office had been reclassifying its design research files on the basis of the classification adopted by the second Committee of Experts in 1966. The United States Government viewed the proposed Locarno Agreement as a most valuable instrument in the task of classifying industrial designs.

49. The Delegate of SWEDEN said that his country would shortly be introducing new legislation on industrial designs. That presupposed the existence of a classification. Sweden strongly supported the second Committee of Experts' classification and the Draft Agreement prepared before the Conference. His Delegation could accept the text of the Agreement as it stood.

50.1 The Delegate of LUXEMBOURG declared that his Government had not yet enacted legislation in the field of industrial designs. This would have to be done. No doubt Benelux and Common Market draft legislation existed, but nothing concrete had as yet resulted.

50.2 The Delegate of Luxembourg recalled that, although it had signed the Hague Act of 1960 on industrial designs, his Government did not wish to submit its ratification before adopting internal legislation ensuring satisfactory protection of designs in the Grand Duchy in favor of nationals of other countries party to the Agreement.

50.3 He was favorably inclined towards the draft submitted to the Locarno Conference and considered it to be a useful basis for discussion.

51. The Delegate of IRAN recalled that in 1958 the Parliament of Iran had adopted a law approving that country's accession to the Paris Convention for the Protection of Industrial Property. He stressed that Iran had made great progress in the industrial field and that the need for protection had made itself felt. Internal legislation was going to be adopted and a drafting committee had been appointed. His country was therefore interested in the establishment of the proposed international classification, which would serve as a model in drawing up the new Iranian law.

52. The Delegate of the SOVIET UNION stated that registration of industrial designs had been introduced in his country in 1965 and the number of registration applications had not ceased to increase. In May 1966 the Soviet Union participated in the work of the Committee of Experts on the International Classification for Industrial Designs, and the Delegate of the Soviet Union spoke in favor of the Draft Agreement establishing an international classification in this field.

53. The Delegate of DENMARK said that his Delegation shared the views expressed by the Swedish Delegate. Denmark, too, would shortly be introducing legislation for designs and models which would make registration conditional on a prior search. A classification was therefore necessary, and it was important that it should be as international as possible. His Delegation wholeheartedly supported the classification proposed by BIRPI and could accept the text of the Draft Agreement without change.

54. The Delegate of CZECHOSLOVAKIA stated that the Patent Office in Prague was already applying the draft classification for industrial designs prepared by the Committee of Experts which met in Geneva under BIRPI auspices. The Patent Office had not encountered any difficulty in applying this classification. The Delegate of

Czechoslovakia therefore hoped that the classification would become an international one which could eventually be amended and supplemented as provided by the Draft Agreement. He added that a new law on industrial designs was currently under preparation in Czechoslovakia.

55. The Delegate of FINLAND said that his country was preparing legislation to protect industrial designs, in co-operation with the other Nordic countries. Consequently, it would strongly welcome the establishment of an international classification. The proposed Draft Agreement was acceptable without major changes.

56. The Delegate of ALGERIA declared that his country was aware of the need for the efforts made by BIRPI to bring about the adoption of an international classification for industrial designs. It was evident that a certain degree of uniformity in this field would make it easier to know about existing designs throughout the world. His country had participated in the work of the Committee of Experts and had profited by this experience. A draft classification was currently under study in Algeria, modeled on the draft being considered by the General Committee.

57. The CHAIRMAN thanked the Delegates who had spoken and noted that there seemed to be unanimity in recognizing the usefulness of an international classification. He felt that it was time to take up the second point proposed for examination by the Assembly, to wit: in order to apply the classification, must a Union be set up, or would another kind of organization be possible?

58.1 The DIRECTOR of BIRPI clarified, in this connection, two points raised in the observations of some governments and several non-governmental organizations. These points were: establishment of a new Union would not be advisable; if established, the new Union would be costly and difficult to handle.

58.2 On the first point, the Director of BIRPI pointed out that the question was essentially a financial one. Establishment of the classification involves the meeting of Committees, which requires interpreters, translators and minute writers. The classification must then be published, as well as improvements and additions. All of this requires expenditure. If a new Union did not exist to meet this expenditure, the cost would fall entirely on the shoulders of the Paris Union, whereas a number of Paris Union countries might not be interested in the classification. It was therefore much more normal and fair for this expenditure to be borne by a Special Union.

58.3 On the second point, the answer could already be found in the explanations given on the preceding point. The cost of establishing a classification and keeping it up to date remained the same, whether or not there was a new Union. The only difference would be that the Union would bear the cost. It did not seem realistic to say that the new Union would be an unwieldy organization. The administrative clauses provided for the new Union are the same as those adopted for other Special Unions, such as the Union created by the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. The latter Union functions in a very simple manner. The Council of Representatives of the member countries of the Union had recently met in Geneva on the same occasion as the other Union Committees. One twenty-minute meeting had sufficed to handle everything to the satisfaction of all concerned. The Director of BIRPI therefore was of the opinion that a new Union was necessary and that the said Union would not be particularly expensive or unwieldy.

59. The Delegate of AUSTRIA shared the view expressed by the Director of BIRPI. The moment it was decided to establish an international classification, it seemed wise, in order to avoid allowing the classification to remain a dead letter, to give it a legal basis and create the organ necessary for its application. If this task were left to a Committee of Experts, the latter might not receive much support from

the various States, and the classification would suffer as a consequence. It therefore appeared that the only solution must be creation of a Special Union.

60. The Delegate of the UNITED STATES OF AMERICA said that his Delegation strongly supported the view of the Director of BIRPI that a Special Union should be established. It was unfair for members of the Paris Union which were not going to participate in the classification work to have to finance it. In any case, the United States of America could only contribute to the expenditure involved on the basis of a Special Union.

61. The Delegate of SPAIN supported the remarks of the Director of BIRPI and of the Delegates of Austria and the United States of America.

62. The Observers of the INTERNATIONAL LEAGUE AGAINST UNFAIR COMPETITION, the INTERNATIONAL CHAMBER OF COMMERCE and the INTERNATIONAL LITERARY AND ARTISTIC ASSOCIATION, took up with the Conference the points made in their observations to BIRPI on document L/1, as reproduced in documents L/2 and L/4.

63. The CHAIRMAN noted that the Delegations of all the States seemed to be in agreement as to recognizing the usefulness of establishing a Special Union. He invited the General Committee to begin examination of the text of the Draft Agreement, article by article.

Article 1, paragraph (1)

64. The Delegate of IRELAND said that the word "special" suggested that there might be a special union and a non-special union. Perhaps the Drafting Committee could look into that point and propose a suitable amendment.

65. The DIRECTOR of BIRPI, in reply to the Delegate of Ireland, explained that the expression used was the same as that found in all the documents adopted at the Stockholm Conference. It would be difficult to abandon this expression, even if it was not a particularly satisfactory one.

66. The Delegate of IRELAND said that he was satisfied with the explanation given by the Director of BIRPI.

67. *Paragraph (1) of Article 1 was approved.*

Article 1, paragraph (2)

68. The Delegate of the UNITED STATES OF AMERICA proposed that the word "adopt" be replaced by the words "agree that there be established, as provided herein,". The reason for his Delegation's proposal was that the Agreement, if concluded, would not *ipso facto* adopt an international classification for industrial designs—what it would do would be to establish machinery for such a classification to be adopted after the Agreement had been concluded.

69. The CHAIRMAN felt that it would be easier to decide on this proposal if it were presented in writing. He asked the Delegation of the United States of America to be good enough to submit a proposal to the Secretariat for distribution and examination by the General Committee.

70. The Delegate of the UNITED STATES OF AMERICA agreed to do this.

71. The Delegate of SPAIN asked whether the Agreement must be understood to apply to utility models as well as to industrial designs. He thought that it was necessary to make this point clear and he stressed the differences between these two types of industrial property.

72. According to the DIRECTOR of BIRPI there was no doubt that the Draft Agreement applied solely to industrial designs. Industrial designs were mentioned alongside utility models in Article 1 of the Paris Convention. The Draft Agreement had been drawn up within the context of the Convention and observed the distinction between

these two types of industrial property. It did not cover utility models in any manner whatever.

73. The Delegate of SPAIN said that he was satisfied with the explanation given by the Director of BIRPI.

74. The CHAIRMAN stated that there was no need to amend Article 1, paragraph (2) in this regard. It sufficed to draw the Rapporteur's attention to this point, so that it might be taken into consideration in his General Report.

75. The Delegate of ITALY shared the opinion of the Director of BIRPI. He also emphasized that Italian legislation clearly distinguished utility models from industrial designs. The General Rapporteur might mention this distinction in his Report.

76. The CHAIRMAN proposed that the Committee should proceed to examine paragraph (3), while waiting for the Delegation of the United States of America to submit its draft amendment of Article 1, paragraph (2) in writing.

Article 1, paragraph (3)

77. The Delegate of the NETHERLANDS proposed adding, in paragraph (3)(ii) the words "in which industrial designs are incorporated" after the word "goods." He recalled that this proposal was included in the observations made by the Netherlands in document L/2.

78. The Delegate of the UNITED STATES OF AMERICA said his Delegation agreed with the substance of the Netherlands proposal, because the word "goods" was too comprehensive. An alternative possibility would be to replace it by the words "articles of manufacture." He thought the final solution could be left to the Drafting Committee.

79. The CHAIRMAN noted that there was no objection to the proposal of the Netherlands and he considered it to be adopted.

80. *It was so decided.*

81. The Delegate of FRANCE asked whether it would not be appropriate to classify what he called ornamental designs, that is to say, designs which were themselves deposited, but which could be used for numerous goods. He felt that a class should be provided for these ornamental designs "in their own right."

82. The SECRETARY GENERAL pointed out that the Draft Agreement did not set up a classification of industrial designs but rather a classification for industrial designs, that is to say, a classification of goods in which industrial designs are embodied. If an industrial design were deposited "in its own right," there would be no need, according to him, to provide a special class. The design ought to be deposited in all the classes. He indicated, finally, that in countries where such designs were covered by copyright legislation, the protection would of course be ensured in a general manner under that heading.

83. The Delegate of ITALY agreed with the statement of the Secretary General.

84. This was also the case as regards the Delegates of the NETHERLANDS and LUXEMBOURG.

85. The Delegate of AUSTRIA thought that the proposal of the Netherlands might solve the problem of designs "in their own right." This problem really did not concern the wording of the provision in question. It stemmed from the very fact that a classification for industrial designs was being set up. It was necessary in any case to allow the various countries freedom to regulate this question as they saw fit. It might however be of interest to clarify this point by making an addition to Article 2 having to do with the legal effect of the proposed classification.

86. The CHAIRMAN believed that the majority of delegates had declared themselves to be in favor of the Netherlands

proposal and that the reservation of the French Delegation was not a formal one.

87. The Delegate of FRANCE was not opposed to the solution contained in the proposal of the Netherlands which had been adopted by the General Committee but he wished to stress the understanding that the French Administration would be able to accept the deposit of designs "in their own right."

88. The Delegate of PORTUGAL wondered whether, after having adopted the proposal of the Netherlands, it might not also be necessary to amend the title of the Agreement.

89. The CHAIRMAN suggested leaving this question to the Drafting Committee.

90. *It was so decided.*

91. The CHAIRMAN invited the members of the General Committee to put to one side paragraphs (2), (4), (5) and (6) of Article 1, and to move directly to the examination of paragraph (7).

92. *It was so decided.*

Article 1, paragraph (7)

93. *Paragraph (7)(a) of Article 1 was adopted without amendment.*

94. The Delegate of AUSTRIA observed that paragraph (7)(b) of Article 1 referred to the WIPO Convention, which, in fact, had not yet entered into force. He therefore felt that it would be preferable to postpone the drafting of this provision in order to be able to adapt it to a provisional solution which might be decided upon later.

95. The CHAIRMAN pointed out that the General Committee would have occasion to consider this question when examining the final provisions of the Draft Agreement.

96. *Subject to this reservation, paragraph (7)(b) of Article 1 was adopted.*

Article 2, paragraph (1)

97. The Delegate of AUSTRIA emphasized that this was the key article in the whole Draft Agreement. In the opinion of the Austrian Delegation it was essential, to avoid a situation in which certain countries would be unable to accede to the Agreement, that all countries should be bound to use a common classification system, without having to commit themselves in respect of its substance, in other words, the system of protection adopted for industrial designs.

98. The CHAIRMAN confirmed that this interpretation of Article 2 of the Draft Agreement corresponded to the Draft authors' intentions.

99. The Observer from the INTERNATIONAL CHAMBER OF COMMERCE, taking the floor on the invitation of the Chairman, insisted on the fact that the classification must be solely of an administrative character, without any legal implications.

100. The Observer from the INTERNATIONAL LEAGUE AGAINST UNFAIR COMPETITION, taking the floor on the invitation of the Chairman, expressed the same view as the representative of the International Chamber of Commerce. He further believed that, as regards the classification of designs, the depositor would risk having to make his deposit in a large number of classes, thereby effecting what one might call "defensive deposits." He added that, in order to avoid a proportional increase in costs, it would be advisable to provide that surcharges applied to each class, but not to each subclass of goods.

101. The SECRETARY GENERAL drew the attention of the Observer from the International League Against Unfair

Competition to the fact that, as a general rule, deposits of industrial designs were not subject to the payment of fees by class. To his knowledge only two countries of the Paris Union, namely Ceylon and South Africa, charged fees on deposits by class.

102. The Observer from the INTERNATIONAL LITERARY AND ARTISTIC ASSOCIATION, taking the floor on the invitation of the Chairman, endorsed the statements made by the Observers of the other two organizations. He added that, in his opinion, it would be advisable to combine the two sentences of paragraph (1) deleting all the last part of the first sentence.

103. The Delegate of FRANCE considered it preferable to remove the second sentence of paragraph (1) of Article 2, pointing out that, that sentence was taken from the Nice Agreement, and, while it had very precise implications in relation to marks, the situation with regard to designs was different.

104. The Delegate of ITALY stated that he had always considered the classification under examination to be solely of an administrative character. Furthermore the scope of the classification adopted could only be the one attributed to it by the member countries of the Union. However, in view of the misgivings expressed by various delegates and observers, the Italian Delegation was of the opinion that the terms of the Article in question should be amended as follows: "Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character, and its scope shall be that which is attributed to it by each country of the Special Union. In particular, the international classification shall not bind the countries of the Special Union as regards the legal nature and scope of the protection afforded to designs."

105. The CHAIRMAN proposed that the first paragraph of Article 2 be held in suspense until the proposal of the Italian Delegation had been submitted in writing.

106. *It was so decided.*

Article 2, paragraph (2)

107. *Paragraph (2) of Article 2 was adopted without change.*

Article 2, paragraph (3)

108. The Delegate of AUSTRIA brought to the attention of the members of the Committee the amendment proposed by the Austrian Government, whereby the words "where applicable" should be inserted in paragraph (3) of Article 2 (document L/2), to avoid obliging States in which no such publication was provided for to amend their legislation currently in force in this field in order to be able to publish registered designs.

109. The Delegate of the UNITED STATES OF AMERICA supported the Austrian proposal.

110. The Delegate of SPAIN considered that several countries would experience difficulty in applying fully the provisions of paragraph (3), and referred to the items contained in the written observations concerning the Draft Agreement which were submitted by Spain. In Spain designs are published before registration and the indication of classes is only given later, after registration.

111. The DIRECTOR of BIRPI felt, with regard to the proposal made by Austria, that it could be made more precise. The mere addition of the words "where applicable" in paragraph (3) of Article 2, after the words "in the official documents" would not be sufficient. What should be indicated was that, if there were official publications of deposits or registrations, the numbers of the classes and subclasses should be mentioned in those publications. With regard to the observation submitted by the Spanish Delegation, the Director of BIRPI was of the opinion that it

need only be specified in the general report that, in the event of double publication, that is, publication on application and publication on registration, it would be sufficient to indicate the numbers of the classes and subclasses in the final publication after registration.

112. The Delegate of SPAIN was satisfied by this statement.

113. *Paragraph (3) of Article 2, amended according to the suggestion of the Director of BIRPI, was approved.*

Article 2, paragraph (4)

114. The Delegate of VENEZUELA drew attention to the points raised on the subject of paragraph (4) of Article 2 in the written observations addressed to BIRPI in the name of the Government of his country. If the classification was solely of an administrative character, it did not seem necessary to retain paragraph (4) in the draft of Article 2. He proposed the deletion of the paragraph.

115. The Delegate of the UNITED STATES OF AMERICA introduced his Delegation's proposal (document L/7), which was designed to avoid using terms in which proprietary rights might exist. The proposal made it clear that there was no question of forcing any opinion concerning the nature of proprietary rights.

116. The Delegate of SWEDEN said that, although a provision similar to paragraph (4) appeared in the Nice Agreement, his Delegation would support the United States proposal.

117. *Paragraph (4) of Article 2 was adopted as amended by the United States of America.*

118. *Subject to the reservations concerning paragraph (1), Article 2 was adopted.*

Article 3, paragraph (1)

119. The Delegate of LUXEMBOURG pointed out that the second part of the first sentence of paragraph (1) of Article 3 was taken from paragraph (6) of Article 1. He therefore proposed that the first sentence be amended as follows: "A Committee of Experts entrusted with the tasks referred to in Article 1(5) and (6) shall be set up at the International Bureau," the remainder of the sentence being deleted.

120. The CHAIRMAN remarked that it was difficult to take a decision to this effect so long as the General Committee had decided to set aside paragraph (6) of Article 1. He proposed, however, that the question be transmitted to the Drafting Committee which would decide in the light of the contents of Article 1, paragraph (6).

121. *It was so decided.*

122. The Delegate of ITALY remarked that it was indicated in paragraph (1) of Article 3 that the Committee of Experts might decide on any amendment or addition to be made to the international classification. He asked whether this constituted the power of final decision, or whether the Assembly provided for in the Draft Agreement had the power also to express its views on this point.

123. The DIRECTOR of BIRPI confirmed that the Assembly did not have the power to intervene in connection with the content of the classification. He added that this was logical, since the drafting of the classification was a task for experts, whereas the Assembly was composed of the delegates of the various countries who were not necessarily specialized in that field. However, he stated that the Assembly nevertheless remained the supreme body and that, in the event of disagreement with the classification drawn up by the experts, it had the opportunity to refuse credit for the printing of the classification, in such a way that the decision of the Committee of Experts would be without practical effectiveness.

124. The Delegate of the NETHERLANDS stated that the same system had been adopted under the Nice Agreement and that it functioned satisfactorily.

125. *Paragraph (1) of Article 3 was adopted, subject to reservations concerning the question raised by the Delegate of Luxembourg.*

Article 3, paragraph (2)

126. The Delegate of LUXEMBOURG pointed out that in paragraph (2) a "simple majority" of the countries of the Union was specified, whereas in paragraph (1) of the same article only a "majority" of the countries represented was required.

127. The CHAIRMAN stated that this was merely a question of form, which would be transmitted to the Drafting Committee.

The meeting rose at 6 p.m.

SECOND MEETING

Thursday, October 3, 1968, at 10 a.m.

EXAMINATION OF THE DRAFT LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS (document L/1) (continued)

128. The CHAIRMAN recalled that a certain number of provisions of Articles 1 and 2 had been put to one side at the previous meeting, in particular: paragraphs (4) and (5) of Article 1, subject to amendments by the Delegation of the United States of America, and paragraph (1) of Article 2, subject to an amendment by the Delegation of Italy. He invited the delegates to express their views first on the text proposed by the Delegation of Italy for paragraph (1) of Article 2 (document L/9).

Article 2, paragraph (1)

129. The Delegate of the NETHERLANDS stated that he agreed in principle with the Italian proposal, but feared that the text was somewhat ambiguous, and suggested that the wording be modified as follows: "Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character; in particular, the international classification shall in no way affect the nature and extent of the protection afforded to the design in the countries of the Special Union."

130. The Delegate of ITALY had no objection to the proposed modification, since it did not affect the substance.

131. The Delegate of SWEDEN said that his Delegation preferred the version in document L/1. The new design law under discussion in Sweden was expected to provide that the protection given to goods registered would be extended to similar goods. In deciding on the extent of protection, the public authorities and the courts would take account of any circumstances that might affect the definition of what were similar goods, and the international classification might well be regarded as affecting that assessment. The Swedish Delegation could not accept a text which in any way restricted the freedom of the courts to take account of the classification. He could only accept the Netherlands version of the Italian amendment if the second sentence was deleted.

132. The Delegate of AUSTRIA expressed the view that a decision should be taken first on the administrative character of the provision, and that it should then be indicated that the effects regarding the nature and extent of protection were only a specific case of the eventual legal scope.

133. The DIRECTOR of BIRPI proposed, in order to take account of the remarks formulated by the preceding Delegates, that paragraph (1) should have the following wording, subject to editing: "Subject to the requirements prescribed by this Agreement the international classification shall be solely of an administrative character. Its legal effect is that attributed to it by each country of the Special Union. However the international classification shall not bind the countries of the Special Union in respect of the nature and scope of the protection afforded to the design in those countries."

134. The Delegate of CZECHOSLOVAKIA endorsed the text proposed by the Director of BIRPI.

135. The Delegate of LUXEMBOURG also supported the text and asked if it would not be possible to combine the last two sentences in one.

136. The Delegate of IRELAND suggested that the same tense be retained in all three sentences of this paragraph. If in the English text, the first and third sentences had "shall," the second should have "shall" too.

137. The Delegate of FRANCE had no objection except with regard to the second sentence, which could lead to believe that each country had to attribute legal effect to the classification, which was not always the case. He proposed, therefore, to modify the second sentence, which could be worded as follows: "Each country may attribute to it the legal scope which it considers appropriate."

138. The CHAIRMAN, summarizing all the proposed modifications, asked the delegates to express their views on the following text, on the understanding that the Drafting Committee would be responsible for giving it the required form: "Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character. However, each country may attribute to it the legal effect which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries."

139. *Paragraph (1) of Article 2 was adopted as amended, subject to editing.*

Article 1, paragraph (4)

140.1 The DIRECTOR of BIRPI emphasized the importance of the United States proposal concerning paragraph (4) of Article 1; the proposal was due perhaps to the fact that the text of that paragraph, as it appears in document L/1, could be drafted in more precise terms. Its existing wording might be interpreted to mean that the list of classes and subclasses prepared by the Committee of Experts appointed by BIRPI in 1966 would be finally adopted by the Conference. It had always been understood, however, and the point had been specified in the commentary on that paragraph in document L/1, that the list of classes and subclasses might be amended or supplemented by the Committee of Experts. Indeed, the list was part of the classification, the amendment of which was expressly provided for in the draft Agreement, but it was advisable to make the text of paragraph (4) in document L/1 more precise and to insert before it an indication such as the following: "Subject to such modifications or additions as the Committee of Experts set up under Article 3 may make to it."

140.2 The proposal of the United States of America went further, however. It tended to make the list of classes and

subclasses drawn up in 1966 into a mere working document which would be used by the Committee of Experts set up by Article 3 for the preparation of a new classification. That entailed a risk, however, for if the Committee of Experts did not succeed in introducing a new classification, the result would be that the Conference would have adopted an Agreement Establishing an International Classification for Industrial Designs whereas no international classification would eventually have been established. If, on the other hand, it was specified that, subject to amendments and additions, the list of classes and subclasses was the one adopted in 1966, at least that list would remain.

141. The Delegate of ITALY endorsed the views of the Director of BIRPI. He further maintained that the list of classes and subclasses drawn up in 1966 should be annexed to the Agreement, and the fact indicated as follows in the body of the text: "the list of classes and subclasses is the one which is annexed to this Agreement...", adding, as proposed by the Director of BIRPI: "...subject to such amendments or additions as the Committee of Experts set up under Article 3 may make to it."

142. The Delegate of the UNITED STATES OF AMERICA thanked the Director of BIRPI for his clarification. The purpose of the United States amendment had been to save the time of the Committee of Experts, since it would be wasteful to adopt an alphabetical list and explanatory notes based on the 1966 classification if the classification was subsequently to be revised. As he now understood it, the Committee would adopt the 1966 list and then proceed to amend it before preparing the alphabetical list and explanatory notes. On that understanding, although he was not empowered to withdraw it, he would not urge the adoption of his Delegation's amendment.

143. The Delegate of PORTUGAL pointed out that paragraph (6) of Article 1, as it featured in document L/1, provided that the international classification might be amended or supplemented by the Committee of Experts. Since, in terms of paragraph (3), the list of classes and subclasses was an integral part of the classification, it was provided that the list might be amended or supplemented as from that moment.

144. The DIRECTOR of BIRPI believed, however, that it should be specified in paragraph (4) that amendments or additions to the list might be made.

145. The Delegates of CZECHOSLOVAKIA and POLAND supported the proposal of the Director of BIRPI.

146. The Delegate of LUXEMBOURG also endorsed this view. He added, however, that it seemed desirable to him to provide in the Resolution that the provisional Committee set up by that Resolution would be committed to a deadline for the drafting of proposals for submission to the Committee of Experts set up by the Agreement.

147.1 The CHAIRMAN stated that this suggestion could be discussed when the Draft Resolution came up for discussion.

147.2 He read out the proposed text of paragraph (4), which took the suggestions of the Director of BIRPI into account. It was as follows: "The list of classes and subclasses shall be that which is annexed to this Agreement, subject to such amendments or additions as the Committee set up under Article 3 may make to it."

148. *Paragraph (4) of Article 1 was adopted as amended, subject to editing.*

Article 1, paragraph (2)

149. The CHAIRMAN pointed out that it now seemed possible to adopt paragraph (2) of Article 1.

150. The Delegation of the UNITED STATES OF AMERICA did not insist on its proposal, which appears in document L/8.

151. *Paragraph (2) of Article 1 was adopted.*

Article 1, paragraph (5)

152. The Delegate of LUXEMBOURG remarked that it would be advisable, in the interest of greater preciseness, to insert after "the Committee of Experts" the mention "hereinafter referred to as the Committee," as had been done in paragraph (7)(b) in connection with the International Bureau of Intellectual Property.

153. The CHAIRMAN replied that he would ask the Drafting Committee to take due note of this remark.

154. *Paragraph (5) of Article 1 was adopted, subject to editing.*

155. *Article 1 as a whole was adopted.*

Article 3, paragraph (2)

156. The Delegate of the UNITED STATES OF AMERICA, moving amendments to paragraphs (2), (4) and (5) of Article 3, set forth in document L/7, said that the reason for the unanimity rule in the Nice Agreement was that, under that Agreement, the transfer of goods from one class to another could affect substantive rights. The best authorities, however, believed that the situation was quite different in the case of registered designs, which were not abstract or general, but associated with particular articles of manufacture. In drafting Article 2, paragraph (1), care had to be taken to make clear that the Agreement was of a purely administrative character and affected substantive rights only to the extent that countries wished it should. His Delegation therefore felt that there was insufficient justification for making the Committee of Experts subject to the difficult rule of unanimity. It had proposed that a qualified majority of two-thirds should apply equally to amendments to the alphabetical list and the explanatory notes, to additions to the list of classes and subclasses involving the creation of new classes and to amendments involving the transfer of goods from one class or subclass to another.

157. The Delegate of AUSTRIA, like the Delegate of the United States of America, felt that it was not necessary to have two different kinds of procedure, one for proposed amendments or additions to the international classification, and the other for the adoption of the alphabetical list and the explanatory notes. In the first case unanimity would create serious obstacles by impeding the completion of the classification. The qualified majority rule was sufficient and might be applied also to the alphabetical list and explanatory notes.

158. The DIRECTOR of BIRPI remarked that a distinction should be made between the procedure to be adopted on one hand for the list of classes and subclasses, and on the other hand for the alphabetical list and explanatory notes. With regard to amendments or additions to the list of classes and subclasses, should the qualified majority or the unanimity rule be adopted? Naturally, as pointed out by the Delegate of Austria, the unanimity rule could jam the whole system of revision of the list, but the same could also be true of the qualified majority rule. Moreover, it was not certain that, as had been mentioned, a change in the list of classes would not affect private interests in any way. Everything would depend on the legal scope attributed to the list in a given country. It was quite possible that, within a certain number of years, an amendment to the list of classes might prejudice private interests in one country. That, therefore, was a reason for maintaining the unanimity rule. Furthermore, the unanimity rule had never shown any real drawbacks in practice. In any event it was a lesser evil, as it was beyond dispute that amendments to the classification could not be imposed on countries which did not agree to them and, if the amended classification was not accepted by a certain number of countries, the

classification would lose its international character. It went without saying, however, that the unanimity rule should apply only to the list of classes and subclasses, and not to the alphabetical list and explanatory notes.

159.1 The Delegate of ITALY fully appreciated the concern of the Delegate of the United States of America and the Delegate of Austria, even though the Italian Delegation had always been an advocate of unanimity. Experience had shown that unanimity was in fact not a real obstacle, since solidarity existed between the countries and, besides, abstentions did not count. He therefore endorsed the point of view of the Director of BIRPI.

159.2 It would be necessary, however, to delete from the Article in question the words "of the countries of the Special Union," and to replace them by "of the members of the Committee of Experts."

160. The Delegate of ARGENTINA said that the dangers to which the Director had referred were dangers for the remote future, but the dangers of the unanimity rule were immediate. He therefore supported the United States amendments.

161. The Delegate of SWEDEN said that as the matters dealt with were extremely similar, the new Agreement should depart only where absolutely necessary from the text of the Nice Agreement. In the present case, there was no such necessity. The unanimity rule in the Nice Agreement had caused no difficulties whatever.

162. The Delegate of NORWAY said that it would be an unfortunate matter if it were made too easy to add new classes to the classification. The classification should be as stable as possible, the addition of new classes should be subject to a unanimous vote.

163. The CHAIRMAN invited the General Committee to decide on the two proposals before it: the United States amendment contained in document L/7 and the proposed text contained in document L/1. The vote would be on two points: first, should unanimity or a qualified majority of two-thirds be required for amendments, and second, should the same procedure be applied in respect of the alphabetical list and explanatory notes?

164. The Delegate of AUSTRIA pointed out that he was in favor of the solution put forward by the Delegate of the United States of America but that his position was not firm. He asked the Delegate of the United States of America if the latter consented to forgo the vote on his proposal.

165. The Delegate of the UNITED STATES OF AMERICA said that the opinion expressed in the course of the discussion indicated that a majority was in favor of preserving the unanimity rule for amendments to the list of classes and subclasses, and that in view of the feeling in the meeting, he would not insist on a vote being taken on any of the amendments proposed by his Delegation.

166. The CHAIRMAN noted that the unanimity rule was accepted without opposition. As for the alphabetical list and explanatory notes, the Delegate of the United States of America had only asked for a qualified majority for reasons of uniformity; consequently, the simple majority system appeared to have been approved.

167. *Paragraph (2) of Article 3 was adopted, subject to the editorial change proposed by the Delegate of Italy.*

Article 3, paragraph (3)

168. *Paragraph (3) of Article 3 was adopted.*

Article 3, paragraph (4)

169. The Delegate of the NETHERLANDS considered that it would be desirable to specify, in the explanatory notes,

the exact meaning of the term "amendments" mentioned in paragraph (4) and of "additions" in paragraph (5).

170. The CHAIRMAN drew the attention of the Committee, in this connection, to the observations communicated by the Netherlands Government (document L/2). This, in fact, was only an editorial question and there was no divergence as to the substance.

171. *Paragraph (4) of Article 3 was adopted, subject to the same editorial changes as were proposed by the Delegate of Italy with regard to paragraph (2).*

Article 3, paragraph (5)

172. *Paragraph (5) of Article 3 was adopted, subject to the same editorial changes as were proposed by the Delegate of Italy with regard to paragraph (2).*

Article 3, paragraph (6)

173. The CHAIRMAN pointed out that the purpose of the United States proposal (document L/7) was to give experts the opportunity of voting by correspondence, but not of delegating their powers.

174. The Delegates of CZECHOSLOVAKIA and GERMANY (FEDERAL REPUBLIC) endorsed the United States proposal.

175. The Delegate of DENMARK said that the system of proxy voting had often proved extremely useful to the Nordic countries, whose legal systems were similar and which frequently consulted together.

176. The DIRECTOR of BIRPI pointed out that the delegation of powers had not given rise to any difficulty in the case of the Nice Agreement. At the Stockholm Conference, however, the majority of the countries represented had considered this procedure inadvisable.

177. The Delegate of DENMARK said that, in the light of the Director's explanation, he withdrew his objection.

178. The Delegates of SWEDEN, NORWAY and SPAIN supported the United States amendment.

179. The Delegate of ITALY supported the United States amendment, particularly since the Italian Delegation had always been opposed to the delegation of powers. The communication of notes in writing could not entail any difficulties in view of the fact that a quorum was not required.

180. The Delegate of FRANCE asked whether, now that the system of unanimity had been adopted, and in the event that new proposals were presented during meetings of experts, countries which had registered opposition would be consulted again.

181. The CHAIRMAN replied that paragraph (7) provided an answer to the question raised by the Delegate of France, and that, in addition, the Rules of Procedure could undoubtedly provide for this eventuality.

182. *Paragraph (6) of Article 3 was adopted in the form proposed by the Delegation of the United States of America.*

Article 3, paragraph (7)

183. The Delegate of NORWAY said that, in view of the amendment to paragraph (6), it would be necessary to amend paragraph (7); the words "submit his opinion" in the third line should be replaced by the word "vote."

184. The CHAIRMAN felt that the Drafting Committee could satisfactorily take care of this question.

185. *Paragraph (7) of Article 3 was adopted, subject to editing.*

Article 4, paragraph (1)

186. *Paragraph (1) of Article 4 was adopted without comment.*

Article 4, paragraph (2)

187. The Delegate of ITALY felt that there was really no necessity to specify "as administrator of the international classification" in the first sentence. He proposed the deletion of that phrase.

188. The DIRECTOR of BIRPI proposed, to satisfy the Delegate of Italy, to adopt the text of the Nice Agreement and insert "as depositary of the international classification."

189. *It was so decided and paragraph (2) of Article 4 was adopted.*

Articles 5 to 15

190. The CHAIRMAN remarked that Articles 5 to 15 constituted a whole. They reproduced similar provisions adopted in Stockholm for other instruments.

191. The DIRECTOR of BIRPI pointed out that those articles had given rise to little comment on the part of Governments. He admitted, however, that the text of Article 13 could be improved by reproducing the terms of Article 24 of the Paris Convention. In addition, with respect to Article 15 concerning the transitional provisions, the Belgian Government (document L/6) wondered whether it would not be advisable to provide for the eventuality of the instrument under consideration entering into force earlier than the Stockholm Convention Establishing the World Intellectual Property Organization. This was a question which arose also in connection with the other Acts adopted in Stockholm and it was advisable not to consider, in the case in point, provisions which might have an adverse effect on other, similar cases.

192. The CHAIRMAN invited delegates to express their opinions on the two questions raised by the Director of BIRPI.

193. The Delegate of the UNITED STATES OF AMERICA said that his Government wished to make it clear, in regard to the provision contained in Article 5(1)(c), that it would not regard itself as liable for the expenses of any private individuals, such as advisers and experts, whom it might engage to form part of its delegation. Such persons would bear their own expenses.

194.1 The Delegate of LUXEMBOURG, referring to paragraph (2)(a)(vi) of Article 5, was of the opinion that this paragraph should be related to paragraph (7) of Article 1, and to this end proposed that the following words be added at the beginning of paragraph (2)(a)(vi): "subject to the provisions of Article 1, paragraph (7)."

194.2 In addition, with reference to paragraph (2)(a)(vii) he pointed out that the Assembly did not establish the Committee of Experts, since the latter was set up under Article 3. He therefore proposed that the words "referred to in" be replaced by "set up under."

194.3 Finally, in the French text of paragraph (2)(a)(ix) of the same article, he proposed the replacement of the word "des" by the words "à apporter aux".

195. The CHAIRMAN pointed out that the first and third remarks of the Delegate of Luxembourg were of an editorial nature and would be transmitted to the Drafting Committee. Moreover, in the absence of further comments, he felt able to accept the amendment to paragraph (2)(a)(vii) of Article 5, proposed by the Delegate of Luxembourg.

196. *It was so decided.*

197. The Delegate of LUXEMBOURG was of the opinion that there was a slight contradiction between Article 10 and Article 12. Article 10 provided that the Agreement had the same duration as the Paris Convention. Article 12, however, provided that "any country may denounce this Agreement..." If it happened that all the countries denounced the Agreement before the expiration of the Paris Convention, the Agreement would cease to exist.

198. The DIRECTOR of BIRPI pointed out that this was a theoretical case; furthermore, similar provisions had been made in other agreements without giving rise to any difficulties.

199. The Delegate of LUXEMBOURG did not insist on this point.

200. The Delegate of FRANCE, referring to Article 14, maintained that the period provided for in paragraph (1)(b) was too short. He proposed that the words "January 31, 1969" be replaced by the words "December 31, 1969."

201. The Delegate of FINLAND supported this proposal.

202. The Delegate of SWEDEN pointed out that the proposed Resolution before the Conference provided for the establishment of a provisional Committee of Experts composed of representatives of the signatories to the future Locarno Agreement. He asked whether, if the French proposal were adopted, the provisional Committee would have to wait until December 31, 1969, before it could begin work.

203. The DIRECTOR of BIRPI, while agreeing that the proposed period was somewhat short, felt that it would be annoying to have to delay the entry into force of the Agreement; the date should not be postponed beyond May 31.

204. The Delegate of the UNITED STATES OF AMERICA welcomed the compromise suggested by the Director of BIRPI which would mean that the Locarno Agreement would be open for signature for approximately six months. That would bring it into line with the Stockholm Acts.

205. The Delegate of FRANCE pointed out that the problem had been the same with the Nice Agreement, that the period prescribed had been a year and a half, and that no practical problem had resulted. He repeated that a period of four or five months was very short for that kind of formality, which called for the intervention of the Ministry of Foreign Affairs.

206. The CHAIRMAN asked the Delegate of France whether he maintained his objection and could not accept the date of May 31 as a compromise.

207. The Delegate of FRANCE preferred, in that case, that the date be set at "June 30, 1969."

208. *It was so decided.*

209. The Delegate of LUXEMBOURG, referring to paragraph (2) of Article 14 and relating it to paragraph (7)(b) of Article 1, proposed, in order to avoid an apparent contradiction, the replacement of the words "shall be established by the Director General" by the words: "shall be established by the International Bureau."

210. The DIRECTOR of BIRPI did not believe that there was a contradiction between these two articles as regards the authority responsible for drawing up the texts. Article 1 was concerned with the text of the international classification, and Article 14 with the text of the Agreement. In the first instance the work involved was of a technical nature, while the second concerned the task of depositary attributed to the Director General.

211. The Delegate of LUXEMBOURG stated that he was satisfied by the Director's explanations and that he would not insist on this point.

212. *Subject to the amendment to paragraph (1)(b) of Article 14, Articles 5 to 15 were adopted.*

PROPOSED RESOLUTION

213. The CHAIRMAN invited the General Committee to undertake the examination of the text of the Resolution proposed in document L/1.

214. The Delegate of the UNITED STATES OF AMERICA said that, since Article 14(1)(b) of the Locarno Agreement provided that it would remain open for signature for a specified period, the words "signed this day" were inappropriate. He therefore proposed their deletion.

215. The CHAIRMAN said that those words were indeed not necessary and, if there was no objection, he would consider the United States proposal adopted.

216. *It was so decided.*

217. The Delegate of LUXEMBOURG, referring to the second sentence of item 2 of the draft Resolution, remarked that, according to the current text, the provisional Committee had the capacity to submit proposals for amendments and additions to the list of classes and subclasses mentioned in Article 1(4) of the Agreement. The provisional Committee should be obliged to re-examine the drafts prepared by the Committee of Experts in 1966 and submit proposals before the entry into force of the Agreement. He proposed, therefore, that the second sentence be amended as follows: "It shall also re-examine the list of classes and subclasses referred to in Article 1(4) of the Agreement and shall submit, if necessary, draft amendments and additions."

218. The Delegate of SWITZERLAND supported this proposal.

219. *The proposal of the Luxembourg Delegation was adopted.*

220. *The whole of the proposed Resolution, as amended, was adopted.*

The meeting rose at 12:25

THIRD MEETING

Monday, October 7, 1968, at 10 a.m.

ADOPTION OF THE TEXTS OF THE AGREEMENT

221. The CHAIRMAN indicated that there were two items on the agenda of this meeting: first, the adoption of the texts of the Agreement as proposed by the Drafting Committee, and second, the approval of the report prepared by Mr. Phaf. The Chairman proposed that the text drawn up by the Drafting Committee be examined first. He thanked the members of the Drafting Committee, and in particular Mr. Špunda, its Chairman, for the work achieved. He then opened the debate on the proposed text.

222. No comments were made either on the title or on Articles 1 to 15; *the texts of the Agreement as proposed by the Drafting Committee were adopted.*

223. The CHAIRMAN then proposed that the Committee examine the list of classes and subclasses which formed an annex to the Agreement. He proposed that the list be entitled "Annex."

224. *This proposal was adopted.*

225. The Committee then proceeded with the examination of the list of classes and subclasses.

226. At this point the Delegation of BELGIUM proposed that the Committee revert to Article 15 of the French text of the Agreement, and pointed out that the French text of this article had no title whereas there was a title in the English text.

227. *It was understood that this omission would be put right and that the French text of Article 15 would have the following title: "Disposition transitoire."*

228.1 The CHAIRMAN then returned to the list of classes and subclasses, indicating that the printed text contained some typographical errors which would be corrected. He further proposed that the French title of Class 31 be amended by substituting the word "Divers" for the word "Miscellanea." With regard to the "Resolution" annexed to the draft Agreement, he proposed that the title be in full, in other words that the phrase "adopted by the Conference of Locarno on October 7, 1968" be added to the word "Resolution."

228.2 The Chairman asked whether delegations had any comments to make on his proposals or on other points.

229. The Delegate of SPAIN pointed out, with reference to the French title of Class 31, that the term "Divers" was already used in subclass 99 of the majority of the classes. He feared that, if the title "Miscellanea" were replaced by "Divers," confusion might arise.

230. The CHAIRMAN acknowledged the soundness of this observation and, with the agreement of the Committee, it was decided to retain the word "Miscellanea" as the French title of Class 31.

231. The Delegate of the UNITED STATES OF AMERICA observed that in the English text of Article 1(3)(ii), which read: "an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes or subclasses into which they fall," the word "or" should be replaced by the word "and"; this slight drafting change would be more consistent with the wording of paragraph (4).

232. *It was so decided.* No alteration of the French text was required, it being already correct.

233.1 Since no delegation signified its wish to speak the CHAIRMAN noted that the Committee unanimously approved the draft Locarno Agreement which would be submitted to the Plenary Meeting of the Conference in the afternoon. He repeated his thanks to the members of the Drafting Committee and to Mr. Špunda, its Chairman.

233.2 He then proposed that the General Report presented by Mr. Phaf be approved. He thanked Mr. Phaf for having prepared the report so quickly. He noted that the text of the report had been available to delegates since 8 o'clock that morning, but that the delegates had perhaps not had sufficient time to study it; he therefore proposed that the meeting be suspended for twenty minutes.

234. *It was so decided.*

DISCUSSION AND APPROVAL OF THE DRAFT GENERAL REPORT

235.1 When the meeting was resumed, the CHAIRMAN proposed that the report be discussed page by page and not paragraph by paragraph. He added, however, that, since the pages of the English and French texts did not coincide with each other, he would indicate each time the numbers of the paragraphs under discussion.

235.2 He opened the discussion on paragraphs 1 to 5. In this connection he pointed out that, during the first Plenary Meeting, Tunisia had been designated to fill one of the three posts of Vice-Chairman, and that it had been indicated that it would be represented in the post of Vice-Chairman by

Mr. Ghozzi. Mr. Ghozzi had been unable to come to Locarno, however, and had been replaced by Mr. Ben Slimane. The Chairman indicated that he would propose, at the Plenary Meeting in the afternoon, that Mr. Ben Slimane be designated as Vice-Chairman in place of Mr. Ghozzi.

236. *No comments were made regarding paragraphs 1 to 5.*

237. *The same applied to the part of the French text comprising paragraphs 2 to 8.*

238. The CHAIRMAN pointed out, however, that he had proposed to Mr. Phaf the replacement, in the third sentence of paragraph 7 of the French text, of the word "compréhensive" by the word "complète." He then submitted paragraphs 9 to 15 for discussion.

239. With reference to paragraph 13, the Delegate of SWEDEN observed that in the English text, the expression "utility designs" should be replaced by the correct term "utility models."

240. *It was so decided.*

241. No other comments were made regarding paragraphs 9 to 15.

242. The CHAIRMAN proceeded to the examination of paragraphs 16 to 19.

243. The Delegate of the UNITED STATES OF AMERICA proposed that paragraph 17 be slightly revised to reflect more correctly the discussion of the Netherlands proposal for the amendment of paragraph (3)(ii) of Article 1 and suggested the following wording: "The proposal regarding the change in paragraph (3)(ii) was supported by a number of delegations. Paragraph (3) thus amended was adopted."

244. *It was so decided.*

245. *No comments were made regarding paragraphs 20 to 26.*

246. The CHAIRMAN proceeded to the examination of paragraphs 27 to 33.

247. The Delegate of IRELAND, with reference to paragraph 29 (in the English text), remarked that after the word "published" there should be a comma. This slight change would bring the text of paragraph 29 exactly into accordance with the text of the Agreement as approved.

248. The CHAIRMAN noted the soundness of this observation, and added that it applied also to the French text. He further maintained that the comma in question was probably the most important comma in the whole Agreement.

249. The GENERAL COMMITTEE then examined paragraphs 37 to 40.

250. The Delegate of the UNITED STATES OF AMERICA, with reference to the last line in paragraph 35, preferred that the words "was therefore withdrawn" be replaced by the words "was not pressed." With reference to paragraph 37, he believed that it would be more consistent if the last sentence were amended to read: "The Director of BIRPI replied in the negative but drew attention to the fact that at Stockholm a thorough examination of form..."

251. *This request was complied with.*

252. With reference to paragraph 39, the Delegate of BELGIUM noted what appeared to him to be an anomaly in the numbering. Paragraph (7) of Article 3 is referred to whereas, he said, Article 3 contained no paragraph (7).

253. The RAPPORTEUR GENERAL pointed out that this anomaly was only apparent, and referred in this connection to paragraph 60 of his report, which gives an account of the work of the Drafting Committee. Discussions which took place within the Drafting Committee had resulted in paragraph (7) becoming paragraph (6).

254. The CHAIRMAN proceeded to the examination of paragraphs 41 to 46.

255. The Delegate of BELGIUM remarked that in paragraph 42 it was written: "With regard to Articles 5 to 15, the Director of BIRPI explained that it was a matter of *ad interim* law." The Belgian Delegate felt that this sentence was not very clear.

256. The DIRECTOR of BIRPI proposed that the sentence in question be replaced by the following: "With regard to Articles 5 to 15, the Director of BIRPI explained that these articles as a whole raised a question of *ad interim* law."

257. With the agreement of the RAPPORTEUR GENERAL, *it was decided that the relevant sentence of paragraph 42 would be amended accordingly.*

258. Paragraphs 47 to 58 were then submitted for discussion.

259. With reference to the English text of paragraph 58, the Delegate of NORWAY proposed a slight amendment in the drafting of the Report to bring it into line with the text of the Agreement as proposed by the Drafting Committee.

260. The RAPPORTEUR GENERAL stated that these remarks would be taken into account.

261. Since there were no further comments on paragraphs 47 to 58, the General Committee proceeded to the examination of paragraphs 59 to 65.

262. These paragraphs gave rise to no comment.

263. The CHAIRMAN then noted that, subject to the detail amendments resulting from observations made during the course of the meeting, *Mr. Phaf's report might be considered adopted.* He thanked the Rapporteur General.

CLOSING REMARKS

264. The Delegate of the UNITED STATES OF AMERICA believed that it would be most appropriate if the summary minutes of the Conference showed that the General Committee acclaimed the very able report prepared by Mr. Phaf, the Rapporteur General.

265. The Delegate of LUXEMBOURG asked what procedure should be followed by delegates to make such amendments to the summary minutes as might be necessary.

266. The CHAIRMAN replied that such amendments should be addressed to the Secretariat. The Secretariat would send the texts of the summary minutes of the last two meetings to the delegates, and they would be informed at the same time of the period within which amendments or additions, if any, should be proposed.

267. Since no delegation signified its wish to speak, the CHAIRMAN closed the meeting and indicated that the Plenary Meeting would take place that same afternoon, at 3:00 p.m.

The meeting rose at 11:30 a.m.

CREDENTIALS COMMITTEE

Acting Chairman : Mr. G. H. C. BODENHAUSEN (Director of BIRPI)

Chairman : Mr. P. SCHÖNFELD (Germany (Federal Republic))

FIRST MEETING

Thursday, October 3, 1968, at 9 a.m.

268.1 Mr. BODENHAUSEN (Director of BIRPI), acting as Chairman, noted that the six Delegations invited at the Plenary Session of the Conference on October 2, 1968, to constitute the Committee were present, namely the Delegations of the following countries: Finland, Germany (Federal Republic), Italy, Soviet Union, Switzerland, Uruguay.

268.2 The Acting Chairman invited the Credentials Committee to elect its Chairman.

269. On the proposal of the Delegate of the SOVIET UNION, Mr. P. Schönfeld (Germany (Federal Republic)) was elected Chairman.

270. The CHAIRMAN thanked the members of the Committee, in particular the Delegate of the Soviet Union, for the honor bestowed upon him.

271. On the proposal of the DIRECTOR of BIRPI, the Secretariat of the Conference was instructed to prepare the report of the Committee for the purposes of the Conference.

272.1 The Chairman gave the floor to the DIRECTOR of BIRPI, who stated that at 6 p.m. on October 2, 1968, the Delegations of the following 26 countries, members of the Paris Union, had duly submitted their credentials to the Secretary General of the Conference: Algeria, Argentina, Austria, Belgium, Czechoslovakia, Denmark, Finland, Germany (Federal Republic), Holy See, Hungary, Iran, Ireland, Italy, Kenya, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Soviet Union, Sweden, Switzerland, United States of America, Yugoslavia.*

272.2 The Director of BIRPI, proposed that with respect to the credentials, the following two points should be examined: (a) the signature of the credentials by the competent authority in accordance with Article 8 of the Rules of Procedure of the Conference, either by the Head of State or Government or by the Minister for Foreign Affairs; (b) the scope of the powers conferred on each delegation.

273. The proposal was adopted by the Committee.

274. The Committee, in conformity with the practice introduced at the Stockholm Conference on Intellectual Property in 1967, admitted that, in the absence of any restrictions resulting from the tenor of the credentials, the powers conferred on a delegation to participate in the Conference as the delegate of a country or to represent a country, implied in particular the right to sign the Final Act of the Conference.

275. On the invitation of the Chairman, the DIRECTOR of BIRPI informed the Committee of the contents of the credentials submitted to the Secretary General of the Conference by 6 p.m. on October 2, 1968.

276.1 The COMMITTEE noted that the Delegations of the following 21 countries had submitted credentials found to be in due and proper form, implying in particular the right to sign the Final Act of the Conference: Algeria, Austria, Belgium, Czechoslovakia, Denmark, Finland, Holy See, Hungary, Iran, Ireland, Kenya, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Soviet Union, Switzerland, United States of America.

276.2 The credentials submitted by the Delegation of the Principality of Monaco were signed by the Minister of State, Director of the Service of Foreign Affairs, who acted as the competent authority within the meaning of Article 8 of the Rules of Procedure of the Conference.

276.3 With regard to the Federal Republic of Germany, Mr. F. Schönfeld, in his capacity as representative of his country on the Committee, stated that the credentials submitted by his Delegation granted full authority, with the exception of the authority to sign the Final Act of the Conference. Special credentials would be submitted to the Secretary General of the Conference authorizing Ambassador von Keller, Head of the Permanent Delegation of the Federal Republic of Germany to the International Institutions at Geneva, to sign the Final Act of the Conference.

276.4 The Delegation of Argentina submitted credentials signed by the Ambassador, Head of the Permanent Mission of the Republic of Argentina to the International Organizations at Geneva. The Secretary General of the Conference would request the Delegation of Argentina to be so good as to have the powers conferred upon his Delegation confirmed by telegram by the competent Authority.

276.5 The credentials submitted by the Delegation of Italy empowered Ambassador Cippico, Head of the Delegation, and Mr. Ranzi, Delegate, to sign the Final Act of the Conference. There was, however, a special mention of the full powers which would be submitted separately for that purpose. The Italian Delegation stated that should either of the two persons mentioned above be prevented, it would submit credentials authorizing another representative of Italy to sign the Final Act of the Conference.**

276.6 The credentials submitted by the Delegation of Sweden empowered that Delegation to represent its country at the Conference and to participate in the work and votes of the Conference. In view of the tenor of those credentials, which might give rise to a restrictive interpretation, the Secretary General of the Conference was requested to enquire of the Delegation of Sweden if the credentials implied the right to sign the Final Act of the Conference.

276.7 The Delegation of the Socialist Federal Republic of Yugoslavia submitted credentials signed by the alternate Secretary of State for Foreign Affairs. The Secretary General of the Conference would ask the Delegation of Yugoslavia to be so good as to request the competent Authority to confirm by telegram the powers conferred upon the Delegation.

* Note by the Secretariat: At the same time, namely October 2, 1968, at 6 p.m., the Delegations of Brazil, France, Spain and Uruguay, duly registered with the Secretariat of the Conference, had not yet forwarded their credentials to the Secretary General of the Conference.

** Editor's Note: Mr. Ranzi was designated as Head of the Italian Delegation in place of Ambassador Cippico, who was prevented from coming to Locarno to take part in the work of the Conference.

277. The next meeting of the Committee would be held at 9 a.m. on Monday, October 7, 1968.

The meeting rose at 9:45 a.m.

SECOND MEETING

Monday, October 7, 1968, at 9 a.m.

278.1 The DIRECTOR of BIRPI made, at the beginning of the meeting, the following statements :

(a) Since 6 p.m., October 2, 1968, the Delegations of France and Spain had submitted their credentials to the Secretary General of the Conference ; those credentials gave the right of signature, in accordance with the practice admitted by the Committee at its first meeting.

(b) The credentials of the Delegation of Belgium, previously notified to the Secretary General of the Conference in the form of a telegram, had been confirmed by credentials submitted in due and proper form.

(c) The Delegation of Germany (Federal Republic) had submitted to the Secretary General of the Conference supplementary credentials authorizing it to sign the Agreement resulting from the Conference.

(d) The Delegation of the Soviet Union had informed the Committee that its credentials, which authorized it to sign any Final Act of the Conference, did not imply the right to sign the Agreement resulting from the Conference.

278.2 The Director of BIRPI, pointed out in this connection that the term "Final Act" could be interpreted in

various ways and that the authority conferred upon a delegation to sign such an Act did not necessarily imply the right to sign the Agreement resulting from the Conference. It would therefore be advisable to substitute for the words "Final Act of the Conference," to be found in various paragraphs of Document L/10, the words "Agreement resulting from the Conference."

279. The Committee examined the particular case of the following Delegations :

(a) As regards Argentina, no new factor had occurred since the previous meeting. The Delegation of that country had informed the Secretary General of the Conference that it did not intend to sign the Agreement.

(b) The Delegations of the following countries had also informed the Secretary General of the Conference that they did not intend to sign the Agreement : Brazil, France, Sweden.*

(c) The Committee took note of the statement made by the Delegation of the Socialist Federal Republic of Yugoslavia to the effect that the alternate Secretary of State for Foreign Affairs was the competent authority within the meaning of Article 8 of the Rules of Procedure of the Conference.

(d) The Committee was informed by the Delegation of Italy that the full powers announced at the previous meeting would shortly be submitted to the Secretary General of the Conference.

(e) The Committee noted that the credentials of the Delegation of Uruguay were still expected and that the Delegation hoped to receive them before the meeting at which the signature would take place.

The meeting rose at 9:30 a.m.

* Note by the Secretariat : After the meeting of October 7, 1968, the Delegation of Poland had informed the Secretary General of the Conference that its credentials should be interpreted as not including the right to sign the Agreement.

**REPORT
OF THE CREDENTIALS COMMITTEE**

REPORT OF THE CREDENTIALS COMMITTEE

(October 7, 1968 ; Original : French ; Document L/13)

1. The Credentials Committee duly constituted in conformity with Rule 3 of the Rules of Procedure of the Conference was composed of members of the Delegations of the following six countries, nominated in the Plenary of the Conference on October 2, 1968, as members of the Committee : Finland, Germany (Federal Republic), Italy, Soviet Union, Switzerland, Uruguay.
2. The Committee held two meetings, on October 3 and 7, 1968.
3. At its first meeting, on the proposal of the Delegation of the Soviet Union, it elected Mr. P. Schönfeld (Germany (Federal Republic)) as Chairman.
4. The Committee verified whether the credentials submitted were in due and proper form in accordance with Article 8 of the Rules of Procedure of the Conference, that is to say, whether they were issued either by the Head of State or Government, or by the Minister for Foreign Affairs.
5. The Committee, in conformity with the practice introduced at the Stockholm Intellectual Property Conference, in 1967, admitted that in the absence of any restrictions resulting from the tenor of the credentials, the powers conferred on a delegation to participate in the Conference as the delegate of a country or to represent a country implied in particular the right to sign the Agreement resulting from the Conference, it being understood that each delegation was entitled to interpret its powers in a more restrictive fashion.
6. After having examined the credentials communicated to the Secretary General of the Conference, the Committee noted the validity of the powers concerning the following countries : Algeria, Argentina, Austria, Belgium, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic), Holy See, Hungary, Iran, Ireland, Italy, Kenya, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Soviet Union, Spain, Sweden, Switzerland, United States of America, Yugoslavia.
7. The Committee noted that the Delegation of Uruguay expected that its credentials in due and proper form would be forwarded.
8. The following seven countries, which are not members of the Paris Union for the Protection of Industrial Property, but participated in the Conference as Observers, did not have to submit credentials : Congo,* Ghana, Nicaragua, Pakistan, Republic of Korea, Thailand, Venezuela.
9. Finally, the Committee noted that the Delegation of Brazil had not yet submitted its credentials.

* This State has since changed its name; at the time of publication of these *Records* it is designated as "Zair."

GENERAL REPORT

GENERAL REPORT

(October 4, 1968 ; Original : French ; Document L/11)

1. The first Plenary Meeting was opened at 11 a.m. on October 2, 1968, by Professor G. H. C. Bodenhausen, Director of BIRPI.
2. On the proposal of the French Delegation, supported by several other delegations, Mr. J. Voyame, Head of the Swiss Delegation, was unanimously elected Chairman of the Conference.
3. As the draft Rules of Procedure came under discussion, the question arose whether under Article 9 any proposal made by a Government in one of the Conference documents should be discussed at a meeting and resubmitted in writing. The Chairman replied that it seemed necessary to discuss any such proposal at the meeting but that it should be considered superfluous to resubmit in writing any proposal already clearly formulated in a document. The Rules were adopted unanimously.
4. The Delegation of the United States of America then proposed that Mr. L. M. Laurelli (Argentina), Mr. E. Tasnádi (Hungary) and Mr. J. B. Ben Slimane (Tunisia) should be appointed Vice-Chairmen, and that Mr. W. Phaf (Netherlands) should be appointed Rapporteur-General. This proposal, supported by several delegations, was accepted unanimously. The Chairman proposed that the Delegates of the following countries should be appointed members of the Credentials Committee : Finland, Germany (Federal Republic), Italy, Soviet Union, Switzerland, Uruguay, and that the Delegates of the following countries should be appointed members of the Drafting Committee : Belgium, Czechoslovakia, France, Ireland, Kenya, Switzerland, United States of America.
5. The meeting rose at noon.
6. At 3 p.m. the Chairman opened the meeting of the General Committee and pointed out that under the Rules of Procedure the Bureau of the Conference was the Bureau of the General Committee. He then opened the discussion on the general comments on the draft (document L/1). He proposed to divide them into three items : (1) the advisability of concluding an Agreement on the international classification for industrial designs ; (2) in the event of an affirmative reply : the necessity of setting up a Special Union for this purpose ; (3) the other items of a general character which the delegations might wish to propose for consideration.
7. With regard to item (1), a large number of delegations had stressed the necessity of concluding such an Agreement. Such a classification, if accepted by a large number of countries, would facilitate the research into the existence of exclusive rights in a given design or any variants thereof. Further, a comprehensive classification was absolutely necessary for countries that required a search for novelty. As no delegation had spoken against this view, the Chairman concluded that the reply to the question was unanimously in the affirmative. The Director of BIRPI gave explanations with respect to item (2). If a classification was desired, much work would be required to set it up. It would be necessary to establish a Committee of Experts to draw up the alphabetical list of goods embodying the designs and to draft the explanatory notes—the experience of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks had shown this quite clearly. Further, the classification would have to be kept up to date, completed, and, when necessary, amended. It was therefore obvious that this work would cost a good deal. If a Special Union was not set up, the expenditure would fall upon the Paris Union, as such. Now it was probable that even if a large number of countries became party to the new Agreement, the latter would not include all or even a majority of the countries that were members of the Paris Union. It would therefore be unfair to charge this expenditure, which was by no means negligible, to all the members of the Paris Union. The only way to avoid this was to set up a Special Union which would finance itself.

8. The Director added that one should not exaggerate the supplementary expenditure that a Special Union would cause. An example could be found in the Lisbon Special Union for the Protection of Appellations of Origin. That Union had held a meeting during the annual meeting of the Executive Committee of the Paris Union. BIRPI had prepared the documents and a full morning had been set aside for this Special Union, but the whole sitting ended after twenty minutes. Certainly, such rapid work was possible only if everyone was more or less in agreement. But if there were any real differences of opinion with regard to certain matters, the existence of a Union was all the more necessary, as otherwise a competent body to harmonize these differences and, if necessary, to decide on them, would be lacking.

9. After this statement by the Director, several delegations spoke in favor of setting up a Special Union. It should be added that in the absence of a Special Union, the expenditure for the classification of designs would be charged to the Paris Union and certain countries would doubtless hesitate to accept this procedure. No opinion to the contrary was expressed. Even the countries which, in the preparatory documents, had formulated doubts concerning the necessity of a Special Union, declared themselves satisfied.

10. Only certain non-governmental organizations had expressed doubts on this point, and these doubts had already been stated in the preparatory documents. These organizations had expressed the opinion that the procedure for the establishment of a new Union should be as uncomplicated as possible.

11. Further, with regard to item (2), the Chairman noted that the reply of the delegations was unanimously in the affirmative. In view of the fact that no delegation desired to raise another general point of order, the Chairman called for a discussion of Article 1, paragraph (1) to (3) of the Draft (document L/1).

12. The first paragraph was adopted without discussion.

13. As regards the second paragraph, the question arose whether the notion of "industrial designs" also included what are called "utility models." The Director of BIRPI explained that in this Draft Agreement, as in all the other Agreements, the terminology of the Paris Convention was used. It was quite clear from the second paragraph of Article 1 of that Convention that the notion of industrial designs was quite distinct from that of utility models. As a result, therefore, the present draft did not in any way refer to the latter category. It would in any case be impossible to include the two categories in one and the same classification, since utility models were more in the nature of small patents and should therefore find their place if necessary in the system of the classification of patents.

14. A proposal regarding the second paragraph with respect to a change of substance is dealt with later, together with a related proposal regarding paragraphs (4) and (5).

15. A proposal was made with respect to paragraph (3) to insert under (ii) after the term "goods" the words "in which industrial designs are incorporated" (document L/2, Netherlands observations). It was pointed out that the legislation of certain countries included the notion of ornamental designs, that is, designs which might be called designs "in their own right," and therefore were not intended for incorporation in specified goods, but which might be incorporated in any product. It might be asked in what class such designs could be included; it might also be necessary to set aside a special class for them.

16. The Deputy Director of BIRPI pointed out that what was being dealt with here was a classification of goods and not a classification of designs. The author of the above-mentioned observation stated that he did not oppose the proposal to add the words "in which industrial designs are incorporated," but that it would nevertheless be necessary to bear in mind that category of designs which had been called "designs in their own right."

17. The proposal was accepted and paragraph (3), thus amended, was adopted.

18. In this connection a suggestion was made to amend the title of the Agreement in the same sense, and mention that the Agreement comprised "an international classification of goods in which industrial designs are incorporated." This suggestion was referred to the Drafting Committee.

19. As regards paragraphs (4) and (5) of Article 1, an amendment of substance was proposed (document L/7). The text of the draft endorsed in a certain sense the list of classes and subclasses drawn up in 1966 by a Committee of Experts. The Committee of Experts set up under the present Agreement could amend it and the provisional Committee mentioned in the draft Resolution (document L/1, note concerning paragraph (6) of the Commentary) would examine the necessity of any subsequent amendments but, as from the date of the entry into force of the Agreement, the 1966 list would bind the States party to it. It had already become evident, however, that certain amendments would have to be made to this list and it would therefore be more logical not to confirm the 1966 list but to stipulate that a new list should be drawn up by the Committee of Experts established by the Agreement, on the basis of the 1966 list. The Director agreed that paragraph (4) seemed to lay down that the 1966 list should become applicable on the date of the entry into force of the Agreement and it was only with respect to any later needs that paragraph (6) allowed the possibility of modifying it. However, as shown in the commentary on these provisions, that was by no means the case. It was intended, rather, that the provisional Committee mentioned in the Resolution should examine the 1966 list immediately after the signature of the new Agreement and that the final Committee established by the Agreement would make all amendments considered advisable after the entry into force of the Agreement. If the text of the draft did not show this idea clearly enough it would be advisable to amend it. From the practical point of view there was no great difference between the system in the draft and that of the proposal in question, but from the legal point of view the latter text entailed a great risk. If after the entry into force of the Agreement the Committee was unable to agree concerning the list to be drawn up, then one would be faced with a complete vacuum. The Agreement, intended to set up an international classification, would not then have achieved its purpose. For that reason the Director thought that although the system in the draft was from the practical point of view identical enough with that of the proposal under discussion, it was nevertheless preferable from the legal point of view.

20. After the explanation given by the Director, the delegation which had made the proposal did not insist.

21. The Director's suggestion to clarify paragraph (4) by adding the following words: "subject to such amendments and additions as the Committee of Experts set up under Article 3 may make to it," was then transformed into a formal proposal and accepted.

22. Another proposal to reword the beginning of paragraph (4) as follows: "The list of classes and subclasses is the list annexed to the present Agreement" was also accepted.

23. Paragraphs (5), (6) and (7) of Article 1 were then adopted without discussion, with the exception of a few remarks of a purely drafting nature.

24. The Chairman then opened the discussion on Article 2.

25. The remarks made by several delegations and by some non-governmental organizations showed quite clearly that there was a certain unanimity with regard to the substance of the first paragraph, but that there was some doubt with respect to the drafting. There was general agreement that the international classification by itself should be merely of an administrative character and that every country which was a member of the Special Union should have the right to give it the legal scope it deemed necessary. The difference of opinion referred specially to the second sentence beginning with the words "In particular..."

26. In the Draft this phrase was intended to free the countries from an obligation which might perhaps be inferred from the first sentence, namely, the obligation to take into account in some measure the international classification when under the national legislation or under a judgment of the national courts the extent of the protection granted to a design was defined or limited. In a first attempt at clarification (document L/9) on the other hand, the sentence beginning with the words "In particular..." had quite a different purpose. It seemed intended rather to protect the owners of industrial designs against a detrimental interpretation which might be given to the first sentence.

27. After various other suggestions to modify certain phrases or to alter the sequence of the sentences had been made, the following text was finally agreed upon: "Subject to the requirements prescribed

by this Agreement, the international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries."

28. Paragraph (2) was adopted without discussion.

29. With regard to paragraph (3), it was pointed out that it should not compel the countries to issue a publication of the designs deposited. The following text was therefore proposed: "The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and if they are officially published in the publications in question, the numbers...."

30. Paragraph (3) was adopted with this amendment. The General Committee expressed the opinion that if a country issued two publications, for example, a publication for the deposit of designs and later a publication for their registration, the text adopted allowed it to include the prescribed information in only one of the two publications.

31. Certain delegations stressed that paragraph (4) could not prevent the fact of the inclusion of a term in the alphabetical list of goods from entailing as a consequence that the term in question was to be considered a generic term and that in certain countries a trademark right to that term would cease to exist. It would therefore be advisable to avoid such a situation as much as possible. For this reason it was proposed to give a more explicit wording to the paragraph as follows: "In selecting terms for inclusion in the alphabetical list of goods the Committee of Experts shall exercise reasonable care to avoid using terms in which proprietary rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to proprietary rights."

32. The first paragraph of Article 3 was adopted without discussion, with the exception of a few remarks regarding the drafting.

33. Paragraphs (2) to (5) gave rise to a fairly long discussion. According to the system in the draft Agreement a distinction is made between two categories of decisions that the Committee of Experts might take regarding the international classification, which consists of three elements: (1) the list of classes and subclasses established by the Agreement itself; (2) the alphabetical list of goods; (3) the explanatory notes. One category comprises the adoption of the alphabetical list and the explanatory notes and any addition to be made to the classification in general; the other includes every amendment to be made to the classification, if that amendment involves the transfer of a product from one class to another. The decisions under the first category are taken by a simple majority, whereas under the second category they require unanimity.

34. One delegation proposed to introduce for the second category a qualified majority of two-thirds, instead of unanimity, in order to avoid that a small group of countries might block the wishes of the great majority (document L/7, proposal of amendments to Article 3). Another delegation asked if two different voting procedures were really necessary. The Director of BIRPI explained that the double procedure was justified by the fact that the decisions of the second category might be detrimental to the interests of private persons, which was not the case as regards the first category. He added that the introduction of a weighted majority for the first category might result in the countries that had voted against not applying the decision adopted and that would endanger the unity of the classification. Further, there did not appear to be any real danger of blocking. The Director admitted that unanimity and a weighted majority both had advantages and disadvantages; he preferred unanimity which in his opinion was the lesser evil.

35. Several delegations expressed their agreement with the opinion of the Director and the proposal for a weighted majority was therefore withdrawn.

36. Paragraphs (2) to (5) were adopted.

37. A proposal made to delete in paragraph (6) the right of the expert of a country to delegate his powers to an expert of another country met with general approval. One delegation pointed out, however, that a provision of that nature presented a certain interest to the smaller countries; he

asked if the similar provision in the Nice Agreement Concerning the International Classification of Goods and Services had caused any difficulty. The Director of BIRPI replied in the negative but drew attention to the fact that at Stockholm a thorough examination was made of the principle of such delegation of powers and the result of that examination had been clearly unfavorable.

38. According to the proposal made, paragraph (6) would read : "Each expert shall have the right to vote by mail." Paragraph (6) was adopted as amended.

39. Paragraph (7)* was adopted without discussion.

40. The first paragraph of Article 4 was adopted.

41. With regard to paragraph (2) it was pointed out that the word "administrator" was not quite correct, since it was not the International Bureau alone which administered the classification, but rather all the bodies set up under the Agreement. A proposal to substitute "depository" was accepted. Paragraph (2), as amended, was adopted.

42. With regard to Articles 5 to 15, the Director of BIRPI explained that it was a matter of *ad interim* law. These Articles had been adapted to the results of the Stockholm Conference as had happened, moreover, in the case of the corresponding Articles of the other Agreements. Certain problems might well arise if the Locarno Agreement came into force before the Stockholm Texts and the same problem would occur as regards the other Agreements. It was hardly likely, however, that such would be the case. It was quite possible that the entry into force of the Stockholm texts, at least with respect to the Paris Convention, would occur in 1969 or 1970. As regards the WIPO Convention the problem was more real. The entry into force of that Convention might well occur much later, since it was subject to fairly strict conditions. In that case, however, the problem would be more compelling as regards the Paris Convention than the Locarno Agreement. Therefore it would be necessary indeed to seek a solution. It had been suggested in the preparatory documents to study the necessity of introducing more elaborate transitional provisions into the Locarno Agreement, but if that were done it was quite possible that such provisions would have awkward repercussions with respect to the other Special Agreements that were in the same situation, but did not contain the general provision which is the subject of Article 15 of the Draft. The Director of BIRPI felt inclined, therefore, to keep to the text of the Draft Agreement.

43. Articles 5 to 9 gave rise to no discussion, with the exception of a few comments regarding drafting. These Articles were therefore adopted.

44. It was pointed out that Article 10 would be entirely without effect if, as was allowed under Article 12, all the countries of the Special Union denounced the Agreement. It was generally admitted that this observation was justified, but, since in the texts of the Stockholm Conference all Special Agreements raised the same problem, it was decided not to attempt to seek a remedy. The Article was therefore adopted.

45. Articles 11 to 13 were adopted without discussion.

46. A delegation proposed that the date fixed in Article 14(1)(a), namely, January 31, 1969, should be postponed to December 31, 1969, until which date the Agreement would remain open for signature. This proposal was supported by some of the delegations. Nevertheless, another delegation pointed out that such an extension of the time limit would delay the beginning of the work of the provisional Committee set up under the Resolution annexed to the Draft Agreement. The Director of BIRPI supported this observation and indicated that the Committee could not be constituted so long as the Agreement remained open for signature, since any signatory State could sit on the said Committee. After an exchange of views, it was decided to postpone until June 30, 1969, the date until which the Agreement would remain open for signature. Article 14, thus amended, was adopted.

47. Article 15 was adopted without change.

48. In the draft Resolution it was proposed to delete the words "signed this day" at the end of paragraph (1). Paragraph (1), thus amended, was adopted.

* Editor's Note : Paragraph (7) having become paragraph (6).

49. A delegation suggested that the second sentence of paragraph (2) should be amended so as to contain the obligation to re-examine the list of classes and subclasses and to make relevant proposals. This suggestion was accepted and referred to the Drafting Committee. Paragraph (2) was then adopted.

50. Paragraphs (3) to (5) were adopted without discussion.

51. The General Committee having concluded the first part of its work, the session closed at noon on October 3, 1968.

52. The Drafting Committee started work at 9.30 a.m. on October 4, 1968, Mr. M. Spunda, Delegate of Czechoslovakia, was elected Chairman by acclamation.

53. Title of the Agreement. The Committee explained the suggestion to change the title in conformity with that of the Nice Agreement. As a result it was agreed that such a change was unnecessary and that the addition in Article 1, paragraph (3)(ii), was motivated by the absence of a larger title.

54. Article 1 received merely drafting changes.

55. In Article 2, paragraph (3), the Committee inserted the word "officially" after the words "and if they are." It was quite clear, of course, that only official publications were under consideration.

56. As regards paragraph (4) the Committee was of the opinion that the text adopted did not give complete satisfaction. The purpose of that paragraph was to protect not only trademark rights but also all the exclusive rights to a term. The Committee therefore amended the text in that sense.

57. The Committee took into account the various observations made in the General Committee with regard to Article 3, paragraphs (1) to (3).

58. With respect to paragraphs (4) and (5), it was thought that it would be advisable to combine these two paragraphs into one paragraph, thus avoiding the necessity of defining the notions of amendments and additions. The new paragraph (4) would read as follows: "(4) The decisions of the Committee of Experts concerning the adoption of amendments and additions to be made in the International Classification shall be by a simple majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required."

59. The former paragraph (5) is deleted and the former paragraph (6) becomes paragraph (5).

60. As regards the former paragraph (7) which becomes paragraph (6), the Committee thought it advisable to supplement the text in order to include all cases likely to occur. It adopted the following text: "If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed has not expressed his vote during the session or within a period to be prescribed by the Rules of Procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee."

61. As a consequence of the amendment to Article 3, paragraph (4) (former paragraphs (4) and (5)), the Committee amended the second sentence of Article 4, paragraph (1) as follows: "The decisions of the Committee of Experts shall enter into force as soon as the communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, they shall enter into force within a period of six months from the date of the said communication."

62. In the second paragraph, the Committee replaced the enumeration of the publications, which might one day become incomplete or even contain the name of a periodical which might cease to exist, by the phrase "... in the periodicals to be designated by the Assembly."

63. It had been suggested in the General Committee to insert in Article 5, paragraph (2)(a)(vi) a reference to Article 1, paragraph (7)(b). The Committee noted that the first provision mentioned only the power of the Assembly to decide that an official text should be drawn up in a specified language, whereas the latter provision required the Bureau to establish the text when the Assembly had taken a decision. The Committee therefore considered that the reference was not justified.

64. In item 2 of the Resolution, the Drafting Committee amended the second sentence as follows, in accordance with the decision of the General Committee : "It shall also re-examine the list of classes and subclasses annexed to the Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list."

65. The Drafting Committee made only drafting changes to items 3 and 5.

GENERAL REPORT ADDENDUM

(Document L/11/Add. ; Original : French ; October 7, 1968)

66. The General Committee resumed its work at 10 a.m. on October 7, 1968.

67. The title of the draft, Articles 1 to 15 and the Annex were adopted, subject to certain drafting corrections.

68. The Resolution was adopted with the addition to the title of the words : "adopted by the Locarno Conference on October 7, 1968." The General Report was then discussed. It was suggested that paragraph 17 should read as follows : "The proposal made with respect to paragraph (3)(ii) was supported by several delegations. The paragraph as amended was then adopted." This suggestion was adopted.

69. A delegation pointed out that a comma was missing in the text of paragraph 29, which gives rise to more than a mere difference of drafting. It was important to add a comma after the word "published". The suggestion was adopted.

70. The delegation which was the author of the proposal mentioned in paragraph 35 desired that the phrase after the word "Director" should read as follows : "... and the delegation which had proposed the introduction of the weighted majority did not press its proposal."

71. A delegation pointed out that paragraph 39 mentioned a paragraph (7)* of Article 3, which no longer existed.

72. The Rapporteur General explained that the work of the Drafting Committee was mentioned in paragraphs 53 *et seq.* of the report ; the change of numbers was explained under paragraph 60.

73. In reply to a comment by a delegation, the Director of BIRPI suggested that the following slight amendment should be made to paragraph 42 : "With regard to Articles 5 to 15, the Director of BIRPI explained that these Articles as a whole raised a question of *ad interim* law." This suggestion was accepted.

74. In paragraph 58 (French only) the word "new" ["nouvelle"] which had been omitted by mistake was inserted. The beginning of the last sentence of paragraph 58 should therefore read : "Nevertheless if such decisions entail the setting up of a new class or ..."

75. The report was then approved together with this Addendum.

* *Editor's Note* : Paragraph (7) having become paragraph (6).

SIGNED TEXT

**Locarno Agreement Establishing
an International Classification
for Industrial Designs
of October 8, 1968**

Article 1

**Establishment of a Special Union;
Adoption of an International Classification**

- (1) The countries to which this Agreement applies constitute a Special Union.
- (2) They adopt a single classification for industrial designs (hereinafter designated as “the international classification”).
- (3) The international classification shall comprise :
 - (i) a list of classes and subclasses ;
 - (ii) an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall ;
 - (iii) explanatory notes.
- (4) The list of classes and subclasses is the list annexed to the present Agreement, subject to such amendments and additions as the Committee of Experts set up under Article 3 (hereinafter designated as “the Committee of Experts”) may make to it.
- (5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts in accordance with the procedure laid down in Article 3.
- (6) The international classification may be amended or supplemented by the Committee of Experts, in accordance with the procedure laid down in Article 3.
- (7) (a) The international classification shall be established in the English and French languages.
(b) Official texts of the international classification, in such other languages as the Assembly referred to in Article 5 may designate, shall be established, after consultation with the interested Governments, by the International Bureau of Intellectual Property (hereinafter designated as “the International Bureau”) referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as “the Organization”).

Article 2

Use and Legal Scope of the International Classification

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

(2) Each country of the Special Union reserves the right to use the international classification as a principal or as a subsidiary system.

(3) The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and if they are officially published, in the publications in question, the numbers of the classes and subclasses of the international classification into which the goods incorporating the designs belong.

(4) In selecting terms for inclusion in the alphabetical list of goods, the Committee of Experts shall exercise reasonable care to avoid using terms in which exclusive rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to exclusive rights.

Article 3

Committee of Experts

(1) A Committee of Experts shall be entrusted with the tasks referred to in Article 1 (4), 1 (5) and 1 (6). Each country of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a simple majority of the countries represented.

(2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the votes of the countries of the Special Union.

(3) Proposals for amendments or additions to the international classification may be made by the Office of any country of the Special Union or by the International Bureau. Any proposal emanating from an Office shall be communicated by that Office to the International Bureau. Proposals from Offices and from the International Bureau shall be transmitted by the latter to the members of the Committee of Experts not later than two months before the session of the Committee at which the said proposals are to be considered.

(4) The decisions of the Committee of Experts concerning the adoption of amendments and additions to be made in the international classification shall be by a simple majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required.

(5) Each expert shall have the right to vote by mail.

(6) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed has not expressed his vote

during the session or within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

Article 4

Notification and Publication of the Classification and of Amendments and Additions Thereto

(1) The alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as any amendment or addition to the international classification decided by the Committee, shall be communicated to the Offices of the countries of the Special Union by the International Bureau. The decisions of the Committee of Experts shall enter into force as soon as the communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, they shall enter into force within a period of six months from the date of the said communication.

(2) The International Bureau, as depositary of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in the periodicals to be designated by the Assembly.

Article 5

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 expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Article 3, 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 (hereinafter designated as "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 international classification in languages other than English and French ;

- (vii) establish, in addition to the Committee of Experts set up under Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union ;
- (viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers ;
- (ix) adopt amendments to Articles 5 to 8 ;
- (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 8 (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 6

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 of experts 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 committees of experts 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 5 to 8.

(b) The International Bureau may consult with intergovernmental 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.

Article 7

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 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 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.

Article 8

Amendment of Articles 5 to 8

(1) Proposals for the amendment of Articles 5, 6, 7 and 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 5, 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 9

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) With respect to the first five countries which have deposited their instruments of ratification or accession, this Agreement shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Agreement shall enter into force three months after the date on which its ratification or accession 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.

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

Article 10

Force and Duration of the Agreement

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

* Editor's Note: It is to be noted that in Article 10 of the English signed text of the Locarno Agreement the error contained in the Draft has been maintained; the word "Intellectual" should, of course, be replaced by the word "Industrial."

Article 11

Revision of Articles 1 to 4 and 9 to 15

- (1) Articles 1 to 4 and 9 to 15 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.

Article 12

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 13

Territories

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

Article 14

Signature, Languages, Notifications

- (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 Government of Switzerland.
- (b) This Agreement shall remain open for signature at Berne until June 30, 1969.
- (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) The Director General shall transmit two copies, certified by the Government of Switzerland, 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.

(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.

Article 15

Transitional Provision

Until the first Director General assumes office, references in this Agreement to the International Bureau of the Organization or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Intellectual Property (BIRPI) or its Director, respectively.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Locarno, on October 8, 1968.

Algeria (M. Laala), Austria (G. Thaler, T. Lorenz), Belgium (A. Schurmans), Czechoslovakia (F. Křístek), Denmark (E. Tuxen), Finland (E. Tuuli), Germany (Federal Republic) (R. von Keller, G. Schneider), Holy See (Reverend Father Henri de Riedmatten), Hungary (E. Tasnádi), Iran (M. Naraghi), Italy (G. Ranzi), Kenya (D. J. Coward), Liechtenstein (Miss M. Marxer), Luxembourg (J. P. Hoffmann), Monaco (J. M. Notari), Netherlands (M. W. J. C. Phaf, E. van Weel), Norway (R. Røed), Portugal (A. de Carvalho, J. Van Zeller Garin, J. Mota Maia), Spain (J. L. Xifra, A. F. Mazarambroz, J. Escudero), Switzerland (J. Voyame, W. Stamm), United States of America (G. D. O'Brien, H. J. Winter), Yugoslavia (Z. Biro).

* *Editor's Note*: The Locarno Agreement was also signed within the period provided for in Article 14(1)(b) by the following three countries: France (G. Bonneau), Soviet Union (Mrs. Z. Mironova) and Sweden (B. Holmquist).

ANNEX

LIST OF CLASSES AND SUBCLASSES OF THE INTERNATIONAL CLASSIFICATION

Class 1 — Foodstuffs, Including Dietetic Foods

- 01) Bakers' products, biscuits, pastry, macaroni, etc.
- 02) Chocolates, confectionery, ices
- 03) Cheeses, butter and other dairy produce and substitutes
- 04) Butchers' meat (including pork products)
- 05) Animal foodstuffs
- 99) Miscellaneous

Class 2 — Articles of Clothing, Including Footwear

- 01) Garments
- 02) Undergarments, lingerie, corsets, brassières
- 03) Headwear
- 04) Footwear (including boots, shoes and slippers)
- 05) Socks and stockings
- 06) Neckties, scarves and neckerchiefs
- 07) Gloves
- 08) Haberdashery
- 99) Miscellaneous

Class 3 — Travel Goods and Personal Belongings, Not Elsewhere Specified

- 01) Trunks, suitcases and briefcases
- 02) Handbags, wallets, pocketbooks, purses, boxes
- 03) Umbrellas, walking sticks
- 04) Fans
- 99) Miscellaneous

Class 4 — Brushware

- 01) Brushes for cleaning and brooms
- 02) Toilet and clothes brushes
- 03) Brushes for industry
- 04) Paint-brushes
- 99) Miscellaneous

Class 5 — Textile Piecegood Articles, and Other Sheet Material

- 01) Spun articles
- 02) Textile fabrics (woven, knitted, etc.)
- 03) Sheet material
- 04) Felt
- 05) Covering sheets (wallpaper, linoleum, etc.)
- 06) Lace
- 07) Embroideries
- 08) Ribbons, braids and other trimmings
- 09) Leather and substitutes
- 99) Miscellaneous

Class 6 — Furnishing

- 01) Furniture
- 02) Mattresses and cushions
- 03) Curtains (ready-made)
- 04) Carpets
- 05) Mats and floor rugs
- 06) Mirrors and frames
- 07) Garment hangers
- 08) Bedspreads
- 09) Household linen and napery
- 99) Miscellaneous

Class 7 — Household Goods, Not Elsewhere Specified

- 01) China, glassware, dishes and other articles of similar nature
- 02) Cooking utensils and containers
- 03) Knives, forks and spoons
- 04) Cooking stoves, toasters, etc.
- 05) Chopping, mincing, grinding and mixing machines
- 06) Flat-irons and laundering, cleaning and drying equipment
- 99) Miscellaneous

Class 8 — Tools and Hardware

- 01) Tools and implements for agriculture, forestry and horticulture
- 02) Other tools and implements
- 03) Locks and other hardware fittings
- 04) Nails, screws, nuts, bolts, etc.
- 99) Miscellaneous

Class 9 — Packages and Containers

- 01) Bottles, flasks, carboys, demijohns and pots
- 02) Closing means
- 03) Drums and casks
- 04) Boxes and cases
- 05) Hampers, crates and baskets
- 06) Bags, wrappers and tubes and capsules
- 07) Cans
- 08) Ropes and hooping materials
- 99) Miscellaneous

Class 10 — Clocks and Watches, and Measuring Instruments

- 01) House clocks
- 02) Watches and wrist-watches
- 03) Alarms
- 04) Other clocks
- 05) All other chronometrical instruments
- 06) Dials, hands and all other parts of watches, clocks, and of other chronometrical instruments
- 07) Geodic, nautical, acoustic and meteorological articles
- 08) Instruments for measuring physical sizes, like length, pressure, etc.
- 09) Instruments for measuring temperature
- 10) Instruments for measuring electric sizes (voltmeters, etc.)
- 11) Testing instruments
- 99) Miscellaneous

Class 11 — Articles of Adornment

- 01) Jewelry
- 02) Trinkets, table, mantel and wall ornaments, including flower vases
- 03) Medals and badges
- 04) Artificial flowers, fruits and plants
- 05) Festive decorations
- 99) Miscellaneous

Class 12 — Vehicles

- 01) Vehicles drawn by animals
- 02) Trolleys, trucks and barrows, hand-drawn
- 03) Locomotives and rolling-stock for railways and all other rail vehicles
- 04) Telepher carriers and chair lifts
- 05) Elevators and hoists
- 06) Ships and boats
- 07) Aircraft and space vehicles
- 08) Motor-cars and buses
- 09) Lorries and tractors
- 10) Trailers, including camping or house trailers
- 11) Motorcycles, scooters, bicycles and tricycles
- 12) Perambulators and invalid chairs
- 13) Special vehicles
- 14) Pneumatic types, inner tubes and all other equipment or accessories,
not elsewhere specified
- 99) Miscellaneous

Class 13 — Equipment for Production, Distribution and Transformation of Electricity

- 01) Generators and motors
- 02) Power transformers, rectifiers, batteries and accumulators
- 03) Equipment for distribution and control of electric power
(conductors, switch-gear, etc.)
- 99) Miscellaneous

Class 14 — Electrical and Electronic Equipment

- 01) Equipment for the recording and reproduction of sounds or pictures
- 02) Equipment for the recording, reproduction and retrieval of information
- 03) Communications equipment (telegraph, telephone, teletype, television and radio)
- 04) Amplifiers
- 99) Miscellaneous

Class 15 — Industrial and Household Machines

- 01) Engines (not electrical)
- 02) Pumps and compressors
- 03) Agricultural machinery
- 04) Construction machinery
- 05) Industrial machines, not elsewhere specified
- 06) Industrial laundry and cleaning machines
- 07) Household laundry and cleaning machines
- 08) Industrial textile sewing, knitting and embroidering machines
- 09) Household textile sewing, knitting and embroidering machines
- 10) Industrial refrigeration apparatus
- 11) Household refrigeration apparatus
- 12) Food preparation machines
- 99) Miscellaneous

Class 16 — Photographic, Cinematographic and Optical Apparatus

- 01) Photographic cameras
- 02) Film cameras
- 03) Projectors (for slides)
- 04) Projectors (for films)
- 05) Photocopying apparatus and enlargers
- 06) Developing apparatus
- 07) Accessories
- 08) Optical articles, such as spectacles, microscopes, etc.
- 99) Miscellaneous

Class 17 — Musical Instruments

- 01) Keyboard instruments (including electronic and other organs)
- 02) Wind instruments (including piano accordions)
- 03) Stringed instruments
- 04) Percussion instruments
- 05) Mechanical instruments
- 99) Miscellaneous

Class 18 — Printing and Office Machinery

- 01) Typewriters and calculating machines, with the exception of electronic machines
- 02) Typographical machinery
- 03) Machinery for printing by processes other than typography (excluding photocopying machinery)
- 04) Characters and type faces
- 05) Massicots
- 99) Miscellaneous

Class 19 — Stationers' Goods, Desk Equipment, Artists' and Teaching Materials

- 01) Writing paper and envelopes
- 02) Desk equipment
- 03) Calendars
- 04) Bindings
- 05) Illustrated cards and other printed matter
- 06) Materials and instruments for writing by hand
- 07) Materials and instruments for painting (excluding brushes), for sculpture, for engraving and for other artistic techniques
- 08) Teaching materials
- 99) Miscellaneous

Class 20 — Sales and Advertising Equipment

- 01) Automatic vending machines
- 02) Display and sales equipment
- 03) Signboards and advertising materials
- 99) Miscellaneous

Class 21 — Games, Toys and Sports Goods

- 01) Games
- 02) Toys
- 03) Gymnastics and sports apparatus and equipment
- 04) Amusement and entertainment articles
- 05) Tents
- 99) Miscellaneous

Class 22 — Arms and Tackle for Hunting, Fishing and Vermin Trapping

- 01) Side arms
- 02) Projectile weapons
- 03) Ammunition, fuses and projectiles
- 04) Hunting equipment (excluding weapons)
- 05) Fishing rods
- 06) Reels for fishing rods
- 07) Baits
- 08) Other pieces of fishing tackle
- 09) Traps and articles for vermin destruction
- 99) Miscellaneous

Class 23 — Sanitary, Heating, Ventilation and Air-Conditioning Equipment

- 01) Fluid and gas-distribution equipment (including pipes and pipe fittings)
- 02) Sanitary fittings and equipment (baths, showers, washbasins, lavatories, sanitary units, etc.)
- 03) Heating equipment
- 04) Ventilation and air-conditioning
- 05) Solid fuel
- 99) Miscellaneous

Class 24 — Medical and Laboratory Equipment

- 01) Equipment for transport and accommodation for patients
- 02) Hospital and laboratory equipment (for diagnostic, tests, operations, treatment, eye-testing)
- 03) Medical, surgical, dental instruments
- 04) Prosthetic articles
- 05) Material for dressing and nursing
- 99) Miscellaneous

Class 25 — Building Units and Construction Elements

- 01) Building material and elements, such as bricks, beams, tiles, slates, panels, etc.
- 02) Windows, doors, blinds, etc.
- 03) Sections, angles and channels
- 04) Houses, garages, and all other buildings
- 05) Civil engineering elements
- 99) Miscellaneous

Class 26 — Lighting Apparatus

- 01) Luminous sources, electrical or not, such as incandescent bulbs, luminous tubes and plates
- 02) Lamps, standard lamps, chandeliers, wall and ceiling fixtures
- 03) Public lighting fixtures (outside lamps, stagelighting, floodlights)
- 04) Torches and hand lamps and lanterns
- 05) Candles, candlesticks
- 06) Lamp-shades
- 99) Miscellaneous

Class 27 — Tobacco and Smokers' Supplies

- 01) Tobacco, cigars and cigarettes
- 02) Pipes, cigar and cigarette holders
- 03) Ash-trays
- 04) Matches

- 05) Lighters
- 06) Cigar cases, cigarette cases, tobacco jars and pouches
- 99) Miscellaneous

Class 28 — Pharmaceutical and Cosmetic Articles and Products, Toilet Articles and Apparatus

- 01) Pharmaceutical articles and products
- 02) Cosmetic articles and products
- 03) Toilet articles and beauty parlor equipment
- 99) Miscellaneous

Class 29 — Safety and Protective Devices and Equipment for Human Beings

- 01) Devices and equipment against fire hazards
- 02) Devices and equipment for water rescue
- 03) Devices and equipment for mountain rescue
- 99) Devices and equipment against other hazards (roads, mines, industries, etc.)

Class 30 — Care and Handling of Animals

- 01) Shelters and pens
- 02) Feeders and waterers
- 03) Saddlery
- 04) Safety and protective devices and equipment for animals
- 99) Other articles

Class 31 — Miscellaneous

All the products not included in the preceding Classes.

RESOLUTION
ADOPTED BY THE CONFERENCE

RESOLUTION

Adopted by the Conference of Locarno
on October 7, 1968

(1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs.

(2) The provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1 (5) of the Agreement. It shall also re-examine the list of classes and subclasses annexed to the Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list.

(3) The International Bureau shall prepare the work of the provisional Committee and shall convene it as early as possible.

(4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.

(5) The travel and subsistence expenses of the members of the provisional Committee shall be borne by the countries which they represent.

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

** This State has since changed its name; at the time of publication of these *Records* it is designated as the "Zair".

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* This State has since changed its name; at the time of publication of these Records it is designated as "Zair".

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

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