

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**SPECIAL UNION FOR THE INTERNATIONAL REGISTRATION OF MARKS
(MADRID UNION)**

ASSEMBLY

**Thirty-First (13th Ordinary) Session
Geneva, September 20 to 29, 1999**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/34/1 Prov.3): 1, 2, 3, 4, 5, 6, 8, 12, 23, 26, 28 and 29.
2. The report on the said items, with the exception of item 12, is contained in the General Report (document A/34/16).
3. The report on item 12 is contained in the present document.
4. Mrs. América Néstar Santos Riveras (Cuba) was elected Chair of the Assembly; Mr. Eugen Stashkov (Republic of Moldova) and Mr. Rimvydas Naujokas (Lithuania) were elected Vice-Chairs.

ITEM 12 OF THE CONSOLIDATED AGENDA:

MATTERS CONCERNING THE MADRID UNION

Establishment of Official Texts of the Madrid Agreement in the English, Arabic, Chinese, German, Italian, Portuguese, Russian and Spanish Languages

5. Discussions were based on document MM/A/31/1.
6. Introducing the document, the Secretariat explained that, although texts of the Madrid Agreement in English, Arabic, Chinese, German, Italian, Portuguese, Russian and Spanish had long existed, these were unofficial translations, since these languages had never been designated by the Assembly, in accordance with Article 17(1)(b) of the Agreement, as languages in which official texts were to be established. It was therefore proposed that this oversight be rectified and that official texts in these languages be established by the Director General after consultation with the interested Governments, on the basis of the existing unofficial translations, it being understood that the only authentic version of the Agreement, to which reference should be made in the event of any divergence between the different language versions, continued to be the original French text.
7. Welcoming the proposal to establish an official text in Portuguese, the Delegation of Portugal sought confirmation that official texts would be established in all the languages designated by the Assembly and asked what procedure would be followed.
8. In reply, the Secretariat stated that each of the existing unofficial texts would be sent to the Governments concerned for their comments and approval.
9. The Delegation of Italy expressed agreement with the proposal and stated that it was ready to cooperate with the International Bureau in establishing an official text in Italian.
10. The Delegation of Lithuania, speaking on behalf of the Group of Central European and Baltic States, supported the proposal.
11. The Delegation of Cuba supported the proposal and observed that the establishment of official texts in Spanish and Portuguese could contribute to promoting the acceptance of the Madrid system in Latin America.
12. The Delegations of Algeria, Germany and Kenya also supported the proposal.
13. The Assembly unanimously decided to designate English, Arabic, Chinese, German, Italian, Portuguese, Russian and Spanish as languages in which official texts of the Madrid Agreement should be established.

Claiming Priority Under the Madrid Agreement and Protocol: Proposed Change in the Practice of the International Bureau

14. Discussions were based on document MM/A/31/2.
15. Introducing the document, the Secretariat drew attention, in particular, to paragraph 8 thereof, which indicated that the recording of a claim to priority based on an earlier filing in a

WTO Member which was not a party to the Paris Convention did not impose any obligation on a Contracting Party of the Madrid Agreement or Protocol which was not itself a WTO Member to accept that claim. Information as to any effect given by such Contracting Parties to such claims would be collected and published by the International Bureau. Moreover, any Contracting Party having any special requirements in relation to claims to priority based on earlier filings in countries not party to the Paris Convention would be invited to inform the International Bureau of those requirements so that the latter could publish them.

16. In reply to a question by the Delegation of Portugal regarding the legal basis for the proposed change of practice of the International Bureau, the Secretariat explained that neither the Madrid Agreement nor the Protocol nor the Common Regulations required a first filing in a party to the Paris Convention; these texts simply referred to priority being claimed under the Paris Convention. Any claim to priority, whether based on a first filing in a party to the Paris Convention or based on a first filing in a WTO Member, was made under the Paris Convention, applicable by virtue of Article 2.1 of the TRIPS Agreement.

17. The Delegations of Lithuania, speaking on behalf of the Group of Central European and Baltic States, and the Netherlands supported the proposal.

18. The Delegation of Cuba also supported the proposal, on the understanding that it did not imply any change in the Madrid Agreement, the Madrid Protocol or the Common Regulations.

19. The Assembly unanimously approved the proposal that, with effect from January 1, 2000, the International Bureau record a priority claim made in an international application not only where the earlier filing was effected in a country party to the Paris Convention but also where it was effected in a Member of the WTO.

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