

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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

ASSEMBLY

**Thirty-Fourth (20th Extraordinary) Session
Geneva, September 23 to October 1, 2002**

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/37/1 Prov.3): 1, 2, 5, 7, 8, 9, 17, 23 and 24.
2. The report on the said items, with the exception of item 17, is contained in the General Report (A/37/14).
3. The report on item 17 is contained in the present document.
4. Mrs. María de los Angeles Sánchez Torres (Cuba), Vice-Chair of the Assembly, presided over the meeting of the Assembly.

ITEM 17 OF THE CONSOLIDATED AGENDA:

MATTERS CONCERNING THE MADRID UNION

5. Discussions were based on document MM/A/34/1.
6. The Delegation of Barbados, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), expressed its support for the inclusion of Spanish as a new working language of the Madrid system, and in particular for the option of full integration (Scenario B) set out in the document.
7. The Delegation of Spain said that the document prepared by the International Bureau showed that the advantages of introducing Spanish as an additional working language of the Madrid system would largely outweigh the additional costs. While the costs incurred would have a minimal impact on the system, the introduction of Spanish would encourage new accessions, not only by Spanish-speaking countries, but also by non Spanish-speaking countries attracted by the expanded geographical coverage of the Madrid system. Furthermore, enlarged membership would result in an increase in the number of international registrations and encourage international trade and harmonization of trademark legislation. For all these reasons, the question at stake was of crucial importance for the development of the Madrid system. The Delegation of Spain supported the option of full integration of Spanish as set out in the document (Scenario B) which, while avoiding the complexity of different linguistic regimes within the Madrid system, would not require higher fees.
8. The Delegation of Germany stated that it was prepared to consider extension of the language regime of the Madrid system to include Spanish. The Delegation was of the view that the Madrid system deserved to be further developed and was keen to seeing it enhanced in every respect. Enhancing the language regime of the Madrid system involved consideration of the effects that envisaged changes would have not only on the International Bureau and users but also on national Offices. Along with enhancing the Madrid system with a view to encouraging accession by Spanish-speaking countries, efforts were also required to foster accession to the Madrid Protocol by intergovernmental organizations, in particular by the European Community. The link between the Community Trade Mark system and the International Registration system would also entail advantages for users. However, such a link, which could only be attained if the European Community acceded to the Madrid Protocol, had been hindered so far by two unresolved problems, namely the language issue and the question of the so-called "opting-back" provision. It stressed the paramount importance of the "opting-back" provision for users. The Delegation of Germany would like to see progress on this matter and believed that progress could be made in the context of the present initiative.
9. The Delegation of Cuba noted that the document prepared by the International Bureau provided detailed information on the legal, financial and technical implications of introducing Spanish in the language regime of the Madrid system and supported the option of full integration (Scenario B) since it would provide greater flexibility to users. It expressed the view that concrete proposals for amendment of the Common Regulations to the Madrid Agreement and Protocol should be submitted for consideration by the Assembly at its next session so as to allow the new language regime to be implemented as of 2004.

10. The Delegation of Portugal strongly supported the inclusion of Spanish in the Madrid system, taking into account the positive consequences that were likely to result from such inclusion, particularly in terms of new accessions and increased use of the system by trademark owners.
11. The Delegation of the United Kingdom supported the inclusion of Spanish as a working language in the Madrid system, especially taking into account that this could lead to an expansion of the system. It was encouraged by the view that the accompanying costs could be covered by income resulting from its increased use. However, concurring with the views expressed by other delegations of Member States of the European Union, the Delegation was of the view that a number of points had to be resolved first, and modalities considered, before a new language regime could be adopted. It suggested that the International Bureau be invited to submit proposals, in consultation with all interested parties, for consideration at a regular or special session of the Assembly in 2003.
12. The Delegation of Slovenia fully supported the inclusion of Spanish as a working language in the Madrid system, favoring the option of full integration (Scenario B). It expressed the view that this would represent an important step in favor of further expansion of the Madrid system.
13. The Delegation of Denmark favored the inclusion of Spanish as a working language in the Madrid system. However, as already expressed by other delegations of Member States of the European Union, some other issues connected to the Madrid Protocol were still pending. It hoped that these issues could be resolved within the coming year allowing the International Bureau to prepare concrete proposals on the matter for consideration by the Assembly at its next session.
14. The Delegation of France said that it favored the inclusion of Spanish as a working language in the Madrid system on the same footing as English, as set out in Scenario A. However, as already expressed by other delegations of Member States of the European Union, a number of other issues relating to the Madrid Protocol had to be resolved first. It hoped that agreement could be reached on these issues soon.
15. The Delegation of Kenya supported the inclusion of Spanish in the Madrid system and stated that it favored full integration (Scenario B). The Delegation noted that it had four years of experience with the Madrid system, during which it had received numerous designations and had found that working with other languages was not as difficult as expected. The Delegation encouraged other developing countries to seriously consider accession to the Madrid system.
16. The Delegation of Algeria, speaking on behalf of the African Group, stressed the importance of plurilinguism and believed that the inclusion of Spanish as a working language in the Madrid system would have positive consequences insofar as it would contribute to expanding that system through new accessions.
17. The Delegation of Switzerland stated that it was ready to consider the inclusion of Spanish in the Madrid system, but that further consultations were needed on the matter. The Delegation was in favor of Scenario A.

18. The Delegation of Slovakia fully supported the inclusion of Spanish as a working language in the Madrid system, favoring the option of full integration (Scenario B). This would allow the Madrid system to develop towards a truly worldwide system.
19. The Delegation of Ireland favored the inclusion of Spanish in the Madrid system, and concurred with the views expressed by the Delegations of Germany and the United Kingdom.
20. The Delegation of the Netherlands said that it was not unwilling to be receptive to the arguments in favor of including Spanish in the Madrid system, although it was in principle against a proliferation of languages. However, it acknowledged the existence of other pending issues regarding the link between the Madrid system and the Community Trade Mark system and considered it appropriate to postpone a decision on the matter until the next session of the Assembly.
21. The Delegation of Algeria stated that it was in favor of the inclusion of Spanish in the language regime of the Madrid system, since it would encourage new accessions. However, the Delegation preferred to postpone a final decision on the matter.
22. The Delegation of the Russian Federation supported the inclusion of Spanish in the language regime of the Madrid system, but believed that the Assembly should revert to this question at its next session.
23. The Delegation of China stated that it was not against the inclusion of Spanish in the language regime of the Madrid system.
24. A number of other delegations of countries not members of the Madrid Union also took the floor in their capacity as observers.
25. The Delegation of Brazil said that it supported the inclusion of Spanish in the language regime of the Madrid system, since this would facilitate accession by countries in Latin America, add flexibility to the system and ultimately contribute to its strengthening.
26. The Delegation of Colombia concurred with the views expressed by the Delegation of Barbados on behalf of the GRULAC countries and by the Delegation of Spain, and welcomed the inclusion of Spanish in the language regime of the Madrid system.
27. The Delegation of Costa Rica supported the statement made by the Delegation of Barbados on behalf of the GRULAC countries and said that the inclusion of Spanish in the Madrid system would be an important factor for its country considering accession in the near future.
28. The Delegation of Panama said that it supported the inclusion of Spanish in the language regime of the Madrid system since this would encourage accession by Spanish-speaking countries.
29. The Delegation of Ecuador said that the inclusion of Spanish in the language regime of the Madrid system was considered to be of the utmost importance for its country.
30. The Delegation of Equatorial Guinea welcomed the inclusion of Spanish in the language regime of the Madrid system, and invited the other delegations to support this proposal. The Delegation stressed the advantages that would result from such inclusion, in

particular the possibility of attracting 18 Spanish-speaking countries not yet within the system and the extension of its geographical coverage to a market of several hundreds of millions of inhabitants.

31. The Delegation of Uruguay supported the inclusion of Spanish in the language regime of the Madrid system as set out in Scenario B and stated that without this, it would be difficult for Uruguay to consider accession to the Madrid Protocol.

32. The Delegation of Mexico said that the Madrid Protocol was of the highest importance to its country. However, it would be difficult for the Mexican Congress to consider the accession of Mexico to this treaty if Spanish was not recognized as a working language. The Delegation, therefore, strongly supported the inclusion of Spanish in the Madrid system. The Delegation also highlighted the large number of trademark applications filed in Latin-American countries, both by residents and non-residents, and stressed the importance of the markets of these countries for users from Madrid Union member States.

33. The Delegation of El Salvador concurred with other delegations from Latin-American countries in supporting inclusion of the Spanish language in the Madrid system as this would greatly facilitate consideration of possible accession.

34. The Delegation of Honduras also supported the inclusion of Spanish, which would allow expansion of the geographical scope of the Madrid system. It would be difficult for its country to consider accession without Spanish being a language of the Madrid system.

35. The Delegation of Venezuela stated that the inclusion of Spanish would be fundamental for its country in considering accession to the Madrid Protocol.

36. The Delegation of the United States of America stated that it did not wish to express an opinion with regard to the introduction of Spanish in the language regime of the Madrid system, but wished, instead, to update the Madrid Union in respect of possible accession by the United States of America to the Madrid Protocol. The Delegation informed the Assembly that legislation regarding the implementation of the Madrid Protocol had passed the United States House of Representatives with a large majority on September 26, 2002, but had yet to be voted on by the United States Senate. The Delegation stated that many said that this might well happen before the end of the year.

37. The Delegation of Spain stated that it believed that all delegations that had intervened had expressed their willingness to support the inclusion of Spanish in the Madrid system and expressed its satisfaction with the reaction of the Assembly to the document prepared by the International Bureau. The Delegation assured the Assembly that it would endeavor to resolve the pending issues as soon as possible in order that a concrete proposal could be adopted at the next session.

38. The Assembly:

(i) acknowledged with thanks the study undertaken by the International Bureau and contained in document MM/A/34/1;

(ii) noted that a large number of delegations of the Madrid Union and of observers had expressed support for the idea of including Spanish as an additional

language in the Madrid system, particularly as a way of encouraging the accession of new members;

(iii) acknowledged that other delegations, most of them also favorable to the inclusion of Spanish, had noted, however, that they needed to clarify some of the issues involved before they could take position on the question;

(iv) agreed that it would revert to the question of the inclusion of Spanish as an additional language of the Madrid system at its next session and requested that the International Bureau meanwhile hold further consultations with Madrid Union members and, in the light of progress made on the issues concerned, prepare concrete proposals for consideration at that next session.

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