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ASSEMBLY

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MATTERS CONCERNING THE MADRID UNION

Memorandum of the Director General

Introduction

1. The draft program and budget for the 1994-95 biennium has the following features particularly relevant to the finances of the Madrid Union:

(i) The Fee-financed Unions (including the Madrid Union) would have a higher share in the "common expenses" of the Organization; the increase of the share of the Fee-financed Unions would diminish the share of the Contribution-financed Unions; such diminution is of an order that would allow a reduction by 8.6% of the overall amount of the contributions payable in the 1994-95 biennium by the member States of the Contribution-financed Unions; such reduction would be of obvious benefit to each State member of the Paris, Berne and other Contribution-financed Unions (see document AB/XXIV/2, paragraph 2.21);

(ii) The fees paid by applicants to the International Bureau for services rendered to them under the Madrid system would be increased by 10% effective April 1, 1994 (see document AB/XXIV/2, paragraph 2.26(ii));

(iii) Any surpluses of the Fee-financed Unions (including the Madrid Union, after paying the member States of the Madrid Union the fixed 40% share of the surplus of that Union) realized in the 1994-95 biennium would,

as has been the case since 1990, go into the special reserve fund for additional premises and computerization (see document AB/XXIV/2, paragraph 2.15); and

(iv) The interest earnings of the reserve fund of the Madrid Union would be credited to that Union (see document AB/XXIV/2, paragraph 2.39(vi)).

2. At its April 1993 meeting, the WIPO Budget Committee examined the above-mentioned matters and:

(i) "... decided to recommend to the Governing Bodies that the draft program and budget for the 1994-95 biennium be approved, including the reduction by 8.6% of the overall amount of the contributions payable in the 1994-95 biennium in respect of the Contribution-financed Unions, on the understanding that the proposed fee increases, the increased participation of the Fee-financed Unions in the financing of program activities of the Organization beyond the level of their participation in the 1992-93 biennium and the use of any surpluses generated during the 1994-95 biennium by those Unions would have to be decided upon by the Assemblies of the PCT, Madrid and Hague Unions, respectively" (document AB/XXIV/3, paragraph 50);

(ii) "In this regard, the Budget Committee also decided to recommend that the International Bureau furnish additional information to the Assemblies of the PCT, Madrid and Hague Unions concerning the finances of those Unions involving, in particular, justification of the proposed fee increases, explanation of the proposed levels of participation of those Unions in the financing of program activities of the Organization, provision of information concerning their reserve funds, and explanation of the proposed use of the 1994-95 surpluses of those Unions" (document AB/XXIV/3, paragraph 51).

(iii) "The Budget Committee also decided to recommend that the International Bureau furnish additional information to the Assembly of the Madrid Union to justify the proposed increase in posts for the International Registration Units, in the light of the reduction in the level of activity and the levelling of the expected number of applications for international registration and renewals" (document AB/XXIV/3, paragraph 52).

3. The present document provides the said additional documentation requested in respect of the Madrid Union; documents PCT/A/XXI/1 and H/A/XIII/1 (issued together with this document) provide the corresponding additional documentation in respect of the PCT and Hague Unions, respectively. The following paragraphs provide, first, an explanation of the interest of the Madrid Union in what the WIPO Budget Committee termed the "program activities" of the Organization, which justifies the proposed levels of participation of the Madrid Union in the financing of those program activities (see paragraphs 4 to 13, below, and Annex I). Since the proposed Madrid fee increase is needed, inter alia, in order to provide reserves needed for the necessary investments for additional premises for both the short term and the long term, and needed for extraordinary investments for further computerization and other advanced technologies to be used in the Madrid system, a description is given of the needs of the International Bureau for additional premises and computerization (see paragraphs 14 to 25, below). The situation of the reserve fund of the Madrid Union and of the crediting of its interest earnings, the situation of the special reserve fund for additional premises and computerization, and the expected surpluses of the Madrid Union to be credited (after the 40% distribution to States members of the Madrid Union) to that special reserve

fund, are then given (see paragraphs 26 to 34, below). The amounts of Madrid fees at present and with the proposed 10% fee increase are next presented (see paragraphs 35 to 41, below, and Annex II). Finally, an explanation is given for the increase in the number of posts budgeted for 1995 for the International Registration Units (see paragraphs 42 to 54, below).

Participation of the Madrid Union in the Financing of Program Activities of the Organization

4. The draft budget for the 1994-95 biennium proposes that the overall amount of the contributions payable in that biennium by the States members of the Contribution-financed Unions be 8.6% below the amount of their contributions in the current (1992-93) biennium. That result would be achieved through the increased shares of the Madrid, PCT and Hague Unions in the common expenses of the Organization. Those increased shares reflect, on the one hand, the expected higher levels of registration activities and, on the other hand, the increased participation of those Unions in the financing of the program activities of the Organization.
5. As concerns the Madrid Union, the said program activities comprise the following: development cooperation with developing countries; setting of norms and procedures for the protection and enforcement of intellectual property rights; exploration of intellectual property questions in possible need of norm setting; the collection of laws, and statistics; documentation and information activities of industrial property offices; Nice Classification activities, and Vienna Classification activities, along with the associated staff units: the Development Cooperation and External Relations Units; and the Industrial Property Units (see document AB/XXIV/2, Items 02, 03, 04, 05, 06, 08, 09, 17 and 18, respectively).
6. The table in Annex I indicates, for each of those items, the level of participation by the Madrid Union in its financing for the 1992-93 biennium (as shown in document AB/XXII/2, Annex 3), the cost increase between that biennium and the 1994-95 biennium, the resulting equivalent level of participation at 1994-95 cost levels (as shown in document AB/XXIV/2, Annex 3), the proposed level of participation by the Madrid Union for the 1994-95 biennium, and thus the increased or decreased level of participation by the Madrid Union. (The overall increased participation of the Madrid Union in these activities also leads to the Madrid Union having a correspondingly greater share in the relevant common administrative expenses.)
7. The following paragraphs provide an explanation of the interest of the Madrid Union--including the interest of the States members of that Union (whether industrialized or developing countries) and of the applicants using the Madrid system--in participating to a very great extent in the activities corresponding to those items, which activities are directly relevant to the Madrid Union, its member States and the Madrid applicants, and thereby indicate that the overall increased level of Madrid Union participation is fully justified.
8. As concerns activities in the field of development cooperation, it is to be noted that 11 of the present 35 members of the Madrid Union are developing countries, and the number of developing country members of the Madrid Union will undoubtedly increase considerably in the future. Having trademark-related development cooperation activities financed by the Madrid Union is thus particularly important in order both to promote the accessions

of many more developing countries to the Madrid Agreement and Protocol, and to develop and strengthen the trademark system within developing countries. The following trademark-related activities in the field of development cooperation are of specific interest to the Madrid Union: encouraging adherence to the Madrid Agreement and Protocol (see document AB/XXIV/2, Item 02(3)); developing human resources; facilitating the creation or improvement of legislation; institution-building; developing the teaching of and research in intellectual property law; developing the profession of intellectual property lawyer and agent; promoting the exchange of experience and information among legislators and among members of the judiciary; facilitating the management and exploitation by local enterprises of their intellectual property rights, and facilitating the participation of representatives of developing countries in certain trademark-related WIPO meetings (see document AB/XXIV/2, Item 02(1), (2), (4), (6), (7), (8), (9), (12) and (14)), along with the associated staff resources in the Development Cooperation and External Relations Units (see document AB/XXIV/2, Item 17).

9. As concerns normative activities--involving mainly the setting of norms and procedures for the protection and enforcement of intellectual property rights, and the exploration of intellectual property questions in possible need of norm setting--it is particularly important for the Madrid Union to have trademark systems throughout the world as harmonized as possible, and to have the protection and enforcement of trademark rights as effective as possible. The following normative activities are of specific interest to the Madrid Union: concluding a treaty on the settlement of disputes between States in the field of intellectual property; concluding a treaty supplementing the Paris Convention as far as Marks are Concerned ("Trademark Law Treaty"); studying the status of certain intergovernmental organizations in WIPO-administered treaties; completing guiding principles for services for the voluntary resolution of intellectual property disputes between private parties; studying topical questions relating to well-known marks, "business identifiers," unfair competition and counterfeiting; maintaining the collection of industrial property laws and treaties; and collecting and publishing trademark statistics (see document AB/XXIV/2, Item 03(1), (2), (6) and (11); Item 04(3), (4), (6) and (7), and Item 05(3) and (4)), along with the associated staff resources in the Industrial Property Units (see document AB/XXIV/2, Item 18).

10. As concerns international classification and standardization activities--involving documentation and information activities of industrial property offices, and the Nice and Vienna Classifications--the Madrid Union has a specific interest in having closer cooperation among trademark Offices (which is promoted through the trademark-related activities of the WIPO Permanent Committee on Industrial Property Information) and in the continuous improvement and development of both the Nice Classification of Goods and Services for the Purposes of the Registration of Marks and the Vienna Classification of the Figurative Elements of Marks (see document AB/XXIV/2, Items 06, 08 and 09, along with the associated staff resources in the Industrial Property Units (see document AB/XXIV/2, Item 18).

11. The increased participation in the Industrial Property Units relates not only to the activities referred to in paragraphs 9 and 10, above, including, in particular, the involvement of the staff of the Industrial Property Units in the preparation and servicing of the diplomatic conference for the "Trademark Law Treaty" (Item 03(2)), but also to the preparation and servicing of meetings concerning the application of the Madrid Protocol (see document AB/XXIV/2, Item 12(4)).

12. It follows from what is stated above that the overall increased level of participation of the Madrid Union in the financing of program activities of the Organization is fully justified. Furthermore, it is in the interest of all States members of the Unions administered by WIPO--including the States members of the Madrid Union--since, along with the increased participation in such financing by the PCT and Hague Unions, it would make possible the 8.6% reduction of the overall level of contributions to the Contribution-financed Unions which, in turn, would facilitate the introduction of the unitary contribution system with every State member of the Contribution-financed Unions paying less contributions in each of the years 1994 and 1995 than for the year 1993 (see document AB/XXIV/5).

13. It is proposed that the participation of the Madrid Union in the financing of program activities of the Organization be increased as described in paragraphs 4 to 12, above.

Additional Premises and Computerization

14. In their 1989, 1990, 1991 and 1992 sessions, the Governing Bodies examined the needs of the International Bureau for additional premises--needed especially for the additional staff and equipment required to handle the expected, continuing and substantial growth in the activities under the Madrid, PCT and Hague systems--and means of accommodating those needs both for the short term and for the longer term (see documents AB/XX/11 and AB/XX/20, paragraphs 93 to 101; AB/XXI/4, AB/XXI/5 and AB/XXI/7, paragraphs 81 to 84; AB/XXII/10 and AB/XXII/22, paragraphs 98 to 103; and WO/CC/XXX/3 and WO/CC/XXX/6, paragraphs 5 to 8).

15. As had been forecast four years ago, the International Bureau has already outgrown the space available in the WIPO and BIRPI Buildings, and now has 54 staff working in rented premises in two nearby buildings: the Procter and Gamble Building and the International Business Machines (IBM) Building. With the continuing growth of use of the PCT system, in particular, it is reasonable to expect that, by the end of the present year (1993), there will be about another seven staff. Furthermore, the draft program and budget for the 1994-95 biennium provides for an increase of 56.5 posts for 1995 as compared with the 1993 approved level; of those additional posts, about five posts are directly related to Madrid promotion and registration activities. It follows that the overall level of the staff of the International Bureau is likely, by the end of the year 1995, to be about $(54 + 7 + 56.5 =) 117.5$ staff more than can be accommodated in the space available in the WIPO and BIRPI Buildings.

16. Those extra numbers of staff will be accommodated in the "Centre administratif de Morillon" (CAM) Building, which is now under construction and is expected to be completed later this year. As the CAM Building will provide office space for about 145 work places, there would be about $(145 - 117.5 =) 27.5$ work places still available. However, while it cannot yet be forecast when the Madrid Protocol will enter into force, it is expected that that would result in a considerable increase in the staff. Furthermore, with the expected continuing growth in the use of the PCT and Hague systems, further staff posts will be needed. In the light of those factors, it is reasonable to assume that the CAM Building--as well as the WIPO and BIRPI Buildings--would be fully occupied some time during the subsequent (1996-97) biennium.

17. It is recalled that the Governing Bodies agreed in 1992 (see document WO/CC/XXX/6, paragraph 6) that the World Meteorological

Organization (WMO) Building be acquired, and the sale of that building to WIPO has now been negotiated. However, since WMO cannot vacate that building until its new premises will be completed (now expected to be in June 1997), and since major transformations would then have to be undertaken to modernize the premises and adapt those to WIPO's needs, it is unlikely that WIPO will be able to begin using those premises until about the end of the century. There will therefore be a need for renting further premises from some time during the 1996-97 biennium until about the year 2000, which will involve additional costs.

18. The agreed purchase price of the WMO Building is 30,000,000 francs (plus a price escalation factor of 3% per year), to be paid from the special reserve fund for additional premises and computerization. Furthermore, the cost of transferring and equipping that building would probably amount to more than twice the expected purchase price (see document WO/CC/XXX/6, paragraph 8).

19. When transformed, the WMO Building should be able to accommodate the staff that will be in the CAM Building and in the additional premises that will have to be rented until the year 2000, but the WMO Building will probably then have only a little office space still available. With the continued growth of the Organization--resulting, in particular, from the increased use of the Madrid, PCT and Hague systems--provision of further office space will then be called for, with associated very significant cost implications.

20. While the previous paragraphs have referred to the needs for additional office space, it is recalled that the Organization continues to suffer from important insufficiencies in conference facilities and parking spaces. As concerns conference facilities, it was noted in 1989 that three more conference rooms (having capacities of about 600, 150 and 100 seats, respectively, and equipped for simultaneous interpretation in seven languages) were needed, along with the associated meeting areas for delegates, cloakrooms and washrooms, office space for officials of various bodies, document storage space, reproduction equipment and other related office requirements, and restaurant facilities. As concerns parking spaces, which are now clearly insufficient for delegates and for the staff and other personnel working at WIPO, it was noted in 1989 that an increase of 450 parking spaces would be required (see document AB/XX/11, paragraphs 19 to 25). If anything, the requirements for conference facilities and for parking spaces will be even greater, and will involve significant construction costs.

21. It is difficult to provide an overall cost estimate for the above requirements for additional premises, but it is recalled that two years ago a cost estimate of the order of 200 million francs for a new building was given (see paragraph 13 of documents MM/A/XXIII/1, PCT/A/XIX/1 and H/A/XII/1). It seems entirely reasonable to continue to assume that the investments for additional premises would be of that order of magnitude.

22. As was noted two years ago (see paragraphs 14 to 16 of documents MM/A/XXIII/1, PCT/A/XIX/1 and H/A/XII/1), since WIPO's need for new premises results essentially from the growth in the activities of the Fee-financed Unions (rather than being for the Contribution-financed Unions), it is considered that WIPO should ask for a construction loan from the "Fondation des immeubles pour les organisations internationales" (FIPOI) only to the extent (if any) that the earnings of the Fee-financed Unions are insufficient to finance the costs of construction and transformation. Such earnings should attain a level that would allow the putting aside from the

surpluses for each biennium of those Unions, by the year 2000, of a substantial amount of the above-mentioned costs so that, out of correctness vis-à-vis the Swiss Government (which provides the generous FIPOI loan financing, with a yearly interest rate of only 3% or 3.5%), the FIPOI loan should be of the smallest possible amount.

23. What will in reality be possible depends on how much the surplus of the Fee-financed Unions will be, which in turn depends upon the amount of the fees: higher fees will mean higher surpluses. It should, therefore, be a deliberate policy to try to obtain surpluses in order to finance at least a major part of the costs of the additional premises.

24. In addition to the costs of purchasing, transforming and constructing the additional premises, a certain initial investment will be required for equipping those premises with furniture and office equipment such as computer terminals and word-processing stations. The share of the Madrid, PCT and Hague Unions in that investment was estimated two years ago to be about 15 million francs.

25. Furthermore, in order to handle, in the most cost-effective manner, the expected growth in numbers of international trademark registrations, renewals and modifications, significant investments will undoubtedly be needed after the 1994-95 biennium for computerization. Those investments will probably be of such magnitude as to require recourse to the above-mentioned special reserve fund for additional premises and computerization. This, too, is a reason for putting aside all that is possible.

Reserve Funds and Expected Surpluses

26. The need for reserves to provide for the above-mentioned investments--which shows why a fee increase is needed--is expected to continue for the next few bienniums, but would not continue indefinitely. In particular, the situation will change once the additional premises have been constructed and equipped, and once significant investments have been made in computerization and other advanced technologies.

27. As of December 31, 1991 (that is, at the end of the last (1990-91) biennium), the reserve fund of the Madrid Union amounted to 24,204,000 francs. Since part of that reserve fund (namely, 900,000 francs) has been and is being used to cover the initial investment for the ROMARIN CD-ROM project (see document MM/A/XXII/2, paragraph 25), the effective level of the reserve fund of the Madrid Union is (24,204,000 - 900,000 =) 23,304,000 francs.

28. Since 1964, as a result of a decision by the Madrid Union Committee of Directors (see document MJ/D0/V/14, paragraph 19(d)), the interest earnings of the Madrid Union reserve fund have been credited directly to that reserve fund. That decision was taken in order to ensure that the Madrid Union reserve fund would grow, in recognition of the fact that an international trademark registration is valid for 20 years, and therefore that a sufficient level of reserve fund was required to be able to carry out the tasks arising from the Madrid Agreement, including the on-going maintenance of the International Trademark Register, should there be a considerable decrease in the number of registrations.

29. In preparing the draft budget for the 1994-95 biennium, it was noted that the result, even with a 10% fee increase as of April 1, 1994, would be a deficit of 2,427,000 francs for the 1994-95 biennium, which would mean

that the States members of the Madrid Union could not receive any amount in respect of the 40% distribution of surplus receipts for that biennium. That deficit situation would be avoided if the interest earnings of the Madrid Union reserve fund--expected to be about 2,840,000 francs for the 1994-95 biennium--would be credited to the miscellaneous income of that Union rather than being credited directly to that reserve fund. The results would be a budgeted surplus for the 1994-95 biennium of $(-2,427,000 + 2,840,000 =)$ 413,000 francs for the Madrid Union; the draft budget for the 1994-95 biennium has been prepared on that basis.

30. It is therefore proposed that, for the 1994-95 biennium, the interest earnings of the Madrid Union reserve fund be credited to the income of that Union.

31. Also as of December 31, 1991, the special reserve fund for additional premises and computerization amounted to 33,366,000 francs. (It is recalled that the constitution of that special reserve fund was decided in 1989 by the Governing Bodies (see documents AB/XX/2, paragraph 29, and AB/XX/20, paragraph 199) for covering part of the costs of the additional premises needed to accommodate the increased number of staff and additional equipment required to handle the ever-increasing activity of the Madrid, PCT and Hague systems, and for covering part of the investments needed in connection with a fuller computerization of those systems.) The amount of that special reserve fund is now effectively 20,066,000 francs, that is, lower by 13,300,000 francs, due to the loan of 10,000,000 francs made by WIPO to the "Fondation du Centre international de Genève" to cover part of the costs of construction of the premises at the CAM Building (see document AB/XXII/22, paragraph 103) and due to 3,300,000 francs being the provision contained in the 1990-92 biennium for funding part of the PCT Document Imaging and Computer-Assisted Publishing System (DICAPS), which amount was credited to the special reserve fund at the end of the 1990-91 biennium and is being drawn from that special reserve fund during the course of the 1992-93 biennium for covering costs of the implementation of that system (see Financial Management Report 1990-91, page 156).

32. After the 40% distribution of surplus receipts to the States members of the Madrid Union, the balance of the surplus for the Madrid Union for the current (1992-93) biennium will go into the above-mentioned special reserve fund (see documents AB/XXII/2, paragraph 2.14, and AB/XXII/22, paragraph 197). The budgeted amount of that surplus (see document AB/XXII/2, paragraph 2.17, amended according to document MM/A/XXIII/4, paragraph 33) is 13,524,000 francs, based on the assumptions that there would be 25,800 applications for international registration and renewals in 1992 and 26,400 in 1993 (see document AB/XXII/2, paragraph 2.33(ii)). The actual results for 1992 were 21,143 applications for international registration and renewals (i.e., considerably lower); for 1993, the latest forecasts (see document AB/XXIV/2, paragraph 2.26(ii)) are for 21,200 applications for international registration and renewals (i.e., also considerably lower). Those considerably lower numbers of applications for international registration and renewals reflect, in particular, the continuing difficult economic situation in a number of countries. Notwithstanding the fee income received by the International Bureau in respect of Rule 38 under the Madrid Regulations (which was not included in the budget for the 1992-93 biennium), it seems reasonable to assume--at the time of writing the present document, when about one-third of the 1992-93 biennium remains--that the surplus that will result for the Madrid Union for the 1992-93 biennium will be considerably below the budgeted amount of 13,524,000 francs.

33. The 10% increase of Madrid fees as of April 1, 1994, would result in an estimated total Madrid income of 49,083,000 francs for the 1994-95 biennium and a surplus of 413,000 francs (see document AB/XXIV/2, paragraph 2.18 and table on page 71). If, alternatively, the increase of Madrid fees were to be 5%, instead of 10%, the total Madrid income for the 1994-95 biennium would become 47,421,000 francs and, instead of a surplus, there would be a deficit of 1,250,000 francs (both figures being therefore 1,662,000 francs lower). If, furthermore, there were to be no increase of fees, the total Madrid income for the 1994-95 biennium would become 45,758,000 francs and the deficit would become 2,912,000 francs (both figures being therefore 3,325,000 francs lower than in the case of a 10% fee increase) It is thus clear that without the proposed 10% increase in Madrid fees, the Madrid Union would be expected to incur a deficit (rather than having a surplus) for the 1994-95 biennium, and the States members of the Madrid Union would therefore not receive any amount in respect of the distribution of surplus receipts for that biennium.

34. In the light of the above-mentioned requirements for investments for additional premises and for further computerization and other advanced technologies, needed because of the growth in the use of the Madrid system, it is proposed that, until new decisions are made, any balance of the surplus of the Madrid Union beyond 1993, after the 40% distribution to the States members of the Madrid Union, continue to go into the special reserve fund for additional premises and computerization (as was the case for the past biennium and as is the case for the current biennium).

Amount of Fees

35. As the most recent Madrid fee increase (of 10%) became effective on April 1, 1992, there will have been a period of two years until the next fee increase, namely, the proposed 10% increase which would become effective April 1, 1994. The costs of the International Bureau's operations for the 1994-95 biennium are expected to be 10.7% higher than for the 1992-93 biennium, that is, reflecting a slightly higher increase in costs than the proposed 10% increase in fees.

36. Faced by the cost increases applicable to their own operations, various national and regional trademark Offices have recently announced significant increases in the levels of their fees in respect of trademarks. In the period since June 1991 (when the previous document (MM/A/XXIII/1) concerning Madrid fees was prepared), there have been increases in fees in various countries whose applicants are major users of the Madrid system. France increased its fees by 76% effective January 1, 1993 (having previously increased its fees in 1985); Italy increased its fees by 56% effective August 21, 1992 (having previously increased its fees in 1989); Switzerland increased its fees by 50% effective April 1, 1993 (having previously increased its fees in 1984), and the Benelux Office increased its fees by 50% effective November 1, 1991 (having previously increased its fees effective in 1989).

37. It is to be noted that, in 1992, the average amount of the fees for an international trademark registration or renewal under the Madrid system was 1,649 francs (including the "supplementary fees" and the "complementary fees"). That amount is very reasonable in view of the numerous advantages of the Madrid system for applicants. Moreover, that amount is very low in comparison to the full costs entailed in securing trademark protection. And the above-mentioned average Madrid fees are minimal when compared to the

overall costs of developing a trademark and of bringing the associated goods to market. Thus, the impact of the proposed 10% fee increase (increasing the average cost for the applicant by the very modest amount of 165 francs) has to be recognized as creating only a minuscule additional cost for those persons and companies which use the Madrid system.

38. In conclusion, the proposed increase in the Madrid fees is needed:

(i) to cover the higher costs--mainly due to inflation--of handling international trademark registrations, renewals and modifications (see paragraphs 35 to 37, above),

(ii) to provide sufficient funds in order for the Madrid Union not to have a deficit for the 1994-95 biennium (see paragraph 33, above),

(iii) to provide sufficient funds for the Madrid Union to increase its participation in the financing of program activities of the Organization, and thereby to enable the contributions to the Contribution-financed Unions to be lowered (see paragraphs 4 to 12, above), and

(iv) to provide reserves needed for the necessary investments for new premises for both the short term and the long term, and needed for extraordinary investments for further computerization and other advanced technologies to be used in the Madrid system (see paragraphs 14 to 25, above).

39. It is proposed that the fees (the "supplementary fees" and the "complementary fees") that are collected by the International Bureau for the benefit of the member States of the Madrid Union and distributed to them should also be increased by about 10% (in fact, the increase would actually be 11.4% due to the need for those fees to be expressed in an even number of francs) effective April 1, 1994. It is to be noted that the total amount of the "supplementary fees" and the "complementary fees" credited to the member States of the Madrid Union in respect of the year 1992 was 18,339,000 francs. For the 1994-95 biennium it is expected to amount to some 40,000,000 francs.

40. Since the fee in respect of Rule 38 of the Regulations under the Madrid Agreement has only recently entered into force, it is proposed not to increase the amount of that fee.

41. For the reasons given in the preceding paragraphs, it is proposed that the Madrid fees, including those belonging to the member States, be increased by 10% effective April 1, 1994, and that Rule 32(1) of the Regulations under the Madrid Agreement be amended accordingly, as shown in Annex II.

Posts for the International Registration Units

42. The total number of posts for the International Registration Units--which perform the tasks of the International Bureau under both the Madrid Agreement and the Hague Agreement--that had been budgeted for 1993 was 45 posts, whereas 50.5 posts are budgeted for 1995 (see document AB/XXIV/2, Annex 17, Item 21), i.e., an increase of $(50.5 - 45) = 5.5$ posts.

43. It is recalled that, in 1989, a description was provided of the simple calculation bases then used for determining numbers of Madrid and Hague posts, based upon "fixed posts" plus numbers of "variable posts." The

numbers of Madrid posts would involve one "variable post" for every 731 international trademark registrations and renewals to be handled each year, whereas the numbers of Hague posts would involve one "variable post" for every 640 international industrial design deposits and renewals to be handled each year (see documents MM/A/XXI/1, paragraphs 9 and 11; MM/A/XXI/3, paragraph 18(i); H/A/X/1, paragraphs 12 to 14, and H/A/X/2, paragraph 14(i)).

44. The estimated number of international trademark registrations and renewals budgeted for 1995 is 21,200 (see document AB/XXIV/2, paragraph 2.26(ii)), whereas the estimated number that had been included for 1993 in the program and budget for the 1992-93 biennium was 26,400 (see document AB/XXII/2, paragraph 2.33(ii)). Applying the above-mentioned calculation basis to the estimated change of $(26,400 - 21,200 =) 5,200$ less registrations and renewals would result in having $(5,200 : 731 =)$ seven less Madrid posts. The estimated number of international industrial design deposits and renewals budgeted for 1995 is 6,100 (see document AB/XXIV/2, paragraph 2.26(iii)), whereas the estimated number that had been included for 1993 in the program and budget for the 1992-93 biennium was 5,600 (see document AB/XXII/2, paragraph 2.33(iii)). Applying the above-mentioned calculation basis to the estimated change of $(6,100 - 5,600 =) 500$ more deposits and renewals would result in having $(500 : 640 =)$ one more Hague post. Thus there would be $(-7 + 1 =)$ six less posts due to the lower numbers (than budgeted for 1993) of international trademark registrations and renewals, partly offset by the higher numbers of international industrial design deposits and renewals; those posts would involve 3.5 less posts in the International Registration Units, and 2.5 less posts in the Budget and Finance Division and in the Personnel Division.

45. However, the experience since 1989 has shown that the above-mentioned simple calculation bases no longer correctly reflect the actual workload of the International Registration Units because of increases in the numbers of trademark modifications and refusals and in the numbers of designs and models per "1960 Act" industrial design deposit. Those calculation bases were determined, in June 1989, in the light of the situation known at that time, that is, reflecting the situation of activities in 1988 under the Madrid Agreement and under the Hague Agreement.

46. As concerns the Madrid system, in 1988 there were 53,623 modifications and refusals (including invalidations), and there were 17,554 registrations and renewals, giving a workload ratio of $(53,623 : 17,554 =) 3.05$ times more modifications and refusals than the number of registrations and renewals. Due to significant increases in the past few years in numbers of modifications and renewals, that workload ratio has now increased. In 1992, there were 74,590 modifications and refusals, and there were 21,143 registrations and renewals, giving a workload ratio of $(74,590 : 21,143 =) 3.53$ times more modifications and refusals than the number of registrations and renewals. It follows that the workload for handling modifications and refusals has increased by a factor of $(3.53 : 3.05 =) 1.157$, that is, by 15.7%. Since about half of the staff time of the International Trademark Registry is devoted to the handling of modifications and refusals, it follows that the number of posts needed to handle the relative growth of modifications and refusals is $(15.7\% \times 0.5 =)$ 7.8% more than the number generated by the simple calculation basis referred to in paragraph 43, above. For the expected 1995 number of 21,200 registrations and renewals, that calculation basis would result in $(21,200 : 731 =) 29$ "variable posts." Assuming about 75,000 modifications and refusals in 1995 (see document AB/XXIV/2, paragraph 2.26(ii)), that is, that the 1992 workload ratio would continue to apply, there would be

($29 \times 0.078 =$) 2.3 more posts needed to handle those modifications and refusals. However, in the budget for the 1992-93 biennium, one new post was already added because of the relatively higher numbers of modifications and refusals being handled (see document AB/XXII/2, paragraph 2.37). Therefore, the net result is ($2.3 - 1 =$) 1.3 additional posts needed to handle the above-mentioned higher numbers of modifications and refusals.

47. As concerns the Hague system, in 1988 there were 8,643 designs and models included in the 2,528 industrial design deposits under the 1960 Act, giving a workload ratio of ($8,643 : 2,528 =$) 3.4 designs and models per "1960 Act" deposit. An increase in the number of designs and models per "1960 Act" deposit increases the work of the International Bureau in handling each deposit, and that has occurred in the past few years. In 1992, there were 13,945 designs and models included in the 3,238 "1960 Act" deposits, giving a workload ratio of ($13,945 : 3,238 =$) 4.3 designs and models per "1960 Act" deposit. It follows that the workload for handling "1960 Act" deposits has increased by a factor of ($4.3 : 3.4 =$) 1.265, that is, by 26.5%. Since about half of the staff time of the International Industrial Design Registry is affected by the total number of designs and models being handled, it follows that the number of posts needed to handle the relative growth of designs and models is ($26.5\% \times 0.5 =$) 13.2% more than the number generated by the simple calculation basis referred to in paragraph 43, above. For the expected 1995 number of 3,700 "1960 Act" deposits (see document AB/XXIV/2, paragraph 2.26(iii)), that calculation basis would result in ($3,700 : 640 =$) 5.8 "variable posts." Assuming that there would continue to be about 4.3 designs and models per deposit in 1995 (see document AB/XXIV/2, paragraph 2.26(iii)), that is, that the 1992 workload ratio would continue to apply, there would be ($5.8 \times 0.132 =$) 0.8 additional post needed to handle those "1960 Act" deposits.

48. It follows from what is stated in the preceding four paragraphs that, as compared with the number of posts that had been budgeted for 1993, there would be ($-3.5 + 1.3 + 0.8 =$) 1.5 less posts (rounded) in the International Registration Units in order to handle the forecast levels of 1995 trademark and industrial design registration activity, as stated in paragraph 2.30 of document AB/XXIV/2.

49. There are three further requirements for new posts for the International Registration Units, not related to the forecast levels of registration activity, namely, (i) for promoting increased use of the Madrid and Hague systems, especially in the light of the Madrid Protocol and the development of the Hague system, (ii) for handling the publication of trademark refusals and (iii) for handling the growing ROMARIN workload.

50. It is recalled that the PCT Legal Division plays a major role in promoting the use of the PCT system. Since that is a relatively new system, it has been--and continues to be--necessary to explain the benefits to potential applicants and their agents, and to help users understand the applicable regulations and the procedures involved in using that system. Those promotion services--involving the organization of, the cooperation with other entities in the organization of, and participation in meetings and other activities for applicants and potential applicants and their agents; missions by staff members, and the production of information material--have in no small measure contributed to the rapid and continuing growth of the use of the PCT system. Since the Madrid Protocol is expected to be applicable in a number of countries which are not now party to the Madrid Agreement, and since the future new Act of the Hague Agreement is expected to make it possible for States not yet party to that Agreement to adhere to that new Act, there will be a requirement for a significant level

of promotion activities--both in countries now party to the Madrid Agreement and party to the Hague Agreement, and in new member States--in order to explain those new systems, in particular, to explain the benefits to potential applicants and their agents, and to help users understand the applicable regulations and the procedures involved in using the Madrid system and the Hague system. The promotion services would be analogous to those now provided, in respect of the PCT system, by the PCT Legal Division. Whereas the PCT Legal Division now has ten staff posts, it is planned that the corresponding unit promoting the use of the Madrid and Hague systems would, for the 1994-95 biennium, only have five posts (three Professional and two General Service).

51. Since "Les Marques internationales" did not in the past include the publication of refusals, trademark agents and others seeking information about marks were not able to determine the actual status of the coverage--by country, and by products and services--of a given mark after any refusals which resulted in changes to what had been published at the time of the initial registration. To correct that problem, refusals have been published in "Les Marques internationales" for the past several years. However, no provision had been budgeted for the staff time involved, namely one post, for which budgetary provision is now included.

52. The ROMARIN CD-ROM project is very successful, and involves increasing contacts with information service bureaux, subscribers and the firms involved in producing and further developing the CD-ROM product. In order to provide necessary support for that growing workload one new post is required.

53. It follows from what is stated in the preceding four paragraphs that, as compared with the number of posts that had been budgeted for 1993, there would be (5 + 1 + 1 =) seven new posts in the International Registration Units for the above-mentioned activities not related to the present levels of registration activity, as stated in paragraph 2.29 of document AB/XXIV/2.

54. The preceding paragraphs indicate the requirements for the budgeted increase of (-1.5 + 7 =) 5.5 posts for 1995 for the International Registration Units.

55. The Assembly of the Madrid Union is invited to note the information contained in this document and to approve the proposals contained in paragraphs 13, 30, 34 and 41, above.

[Annex I follows]

LEVELS OF PARTICIPATION OF THE MADRID UNION IN THE FINANCING OF "PROGRAM ACTIVITIES" OF THE ORGANIZATION
(in thousands of francs)

	1992-93 Biennium	Cost Increase	1994-95 Equivalent	Proposed for 1994-95 Biennium	Increased (Decreased) Participation
Item 02 Development Cooperation with Developing Countries	451	37	488	471	(17)
Item 03 Setting of Norms	77	5	82	123	41
Item 04 Exploration	25	2	27	24	(3)
Item 05 Collection of Laws, Statistics	117	1	118	120	2
Item 06 Documentation and Information Activities	38	2	40	39	(1)
Item 08 Nice Classification Activities	13	1	14	111	97
Item 09 Vienna Classification Activities	2	-	2	22	20
Item 17 Development Cooperation and External Relations Units	1,748	229	1,977	1,779	(198)
Item 18 Industrial Property Units	420	57	477	1,112	635

[Annex II follows]

ANNEX II

PROPOSED SCHEDULE OF MADRID FEES APPLICABLE FROM APRIL 1, 1994
(Rule 32(1))

	Current Amounts (Swiss francs)	Proposed Amounts (Swiss francs)	Percentage Increase
(1) The International Bureau shall collect the following fees, payable in advance, in Swiss francs:			
(a) International registration or renewal fees			
(1) basic fee			
for 20 years (Rules 10(1) and 25(1))	790	870	10.1%
for a first period of 10 years (Rule 10(1))	520	570	9.6%
balance of the basic fee for the second period of 10 years (Rule 10(2))	660	720	9.1%
(11) supplementary fee for each class of goods and services after the third (Articles 7(1) and 8(2)(b) of the Agreement)	88*	98*	11.4%
(111) complementary fee for territorial extension to one country (Articles 3 ^{ter} , 7(1) and 8(2)(c) of the Agreement)	88*	98*	11.4%
(b) Surcharge			
(1) for a mark including a figurative element or for a word mark in a special form of writing, except when published in color (Rule 9(1))	65	70	7.7%
(11) for a mark published in color (Rule 9(2)(11))	400	440	10.0%
(c) Fee for classification of goods and services (Rule 12(2))			
(1) where the goods and services are not classified or grouped in classes	70	80	13.3%
and per word after the twentieth	4	4	unchanged
(11) where the classification indicated is incorrect per word (but no fee if the number of reclassified words is 19 or less)	4	4	unchanged
(d) Surcharge for the use of the period of grace (Rules 10(3) and 25(3)): 50% of the fees payable under (a)			

*The returns from the "supplementary fee" and the "complementary fee" are for the benefit of the member States, not for the International Bureau.

	Current Amounts (Swiss francs)	Proposed Amounts (Swiss francs)	Percentage Increase
(e) Fee for recording a change (Article 9(4) of the Agreement and Rule 20)			
(1) territorial extension requested subsequent to international registration (Article 3 ^{ter} (2) of the Agreement)	160	175	9.4%
(11) total transfer of the international registration	160	175	9.4%
(111) partial assignment of the international registration, for some of the goods and services or for some of the countries	160	175	9.4%
(1v) limitation of the list of goods and services requested subsequent to registration, for all or some of the countries, except in the case covered by Rule 33(1v)	160	175	9.4%
(v) change of name and address of the owner for a single international registration	90	100	11.1%
for each of the following international registrations			
for the same owner if the same change is requested at the same time	10	10	unchanged
(f) Fee for communicating information concerning the contents of the International Register (Article 5 ^{ter} (1) of the Agreement)			
(1) establishing an extract from the Register up to three pages	90	100	11.1%
for each page after the third	10	10	unchanged
(11) some other attestation or information in writing	70	80	14.3%
for a single international registration			
for each of the following international registrations for the same owner if the same information is requested at the same time	10	10	unchanged
(111) some other information given orally, per international registration	25	30	20.0%
(1v) reprint or photocopy of the publication of an international registration, per page	5	5	unchanged

Weighted percent of increase: 10%
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[End of Annex II and of document]