

## **Union for the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Union)**

### **Assembly**

**Thirty-Ninth (18<sup>th</sup> Extraordinary) Session  
Geneva, July 14 to 22, 2022**

### **REPORT**

*adopted by the Assembly*

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/63/1): 1, 2, 3, 4, 6, 8, 10(ii), 11, 18, 19, 20 and 21.
2. The reports on the said items, with the exception of item 18, are contained in the General Report (document A/63/10).
3. The report on item 18 is contained in the present document.
4. In the absence of Mr. Abdelsalam Mohamed Al Ali (United Arab Emirates), Vice-Chair of the Assembly, Mr. Csaba Baticz (Hungary) was elected Acting Chair of the Assembly.

## ITEM 18 OF THE CONSOLIDATED AGENDA

### BUDAPEST UNION ASSEMBLY

5. Discussions were based on document BP/A/39/1.

6. The Acting Chair of the Budapest Union Assembly welcomed the accession of Malaysia, on March 31, 2022, and Indonesia, on July 13, 2022, to the Budapest Treaty. This brings the total number of Budapest Treaty Contracting Parties to 87.

7. The Secretariat introduced document BP/A/39/1 and indicated that it addressed two issues in relation to the Forms under the Budapest Treaty. The first issue concerned the inclusion of information on email addresses and telephone numbers of depositors and requesters of a sample of a microorganism in the Forms. The Secretariat explained that such a modification facilitated the communication between the users of the Budapest System, the international depository authorities (IDAs), and the intellectual property (IP) offices. The Secretariat indicated that the proposed modification was a mere update on the formality of the Forms. However, as far as Form BP/12 was concerned, such a modification required a decision of the Assembly of the Budapest Union. Therefore, the Assembly was invited to decide on the inclusion of the email address and telephone number of the party concerned as part of the contents of Form BP/12. With respect to other BP Forms that were established by the Director General, the Secretariat referred to document BP/A/39/1, which presented the procedure that would be followed by the International Bureau to make similar modifications on those other Forms. The Secretariat said that the second issue related to the expansion of the languages of the Forms under the Budapest Treaty to the six United Nations (UN) languages. Regarding the languages of Forms BP/4, 5, 6 and 9, which, under the Budapest Treaty, should be designated by the Assembly of the Budapest Union, the Secretariat proposed that the languages of those Forms (currently available in English, French, Russian and Spanish), be extended to the six UN languages to take into account the expansion of the geographical coverage of the membership of the Budapest Treaty and the WIPO language policy. In addition, the Secretariat referred to Rule 11.4(a) and (b) of the Budapest Treaty that regulated the languages of a request, a declaration and other types of communications to IDAs with respect to the furnishing of samples of deposited microorganisms, and also provided an obligation of the International Bureau, under certain conditions, to establish a certified translation of those communications. To be in line with WIPO's commitment to multilingualism, the Secretariat proposed that the languages stipulated in Rule 11.4(a) and (b) also be expanded to the six UN languages as suggested in Annex II to document BP/39/1, with an entry into force on January 1, 2023. Concerning the languages of the other Forms that do not require the decision of the Assembly of the Budapest Union, the Secretariat indicated that the International Bureau would also prepare them in six languages for the benefit of users of the Budapest System, IDAs and IP offices.

8. The Delegation of Malaysia thanked WIPO, in particular the Division for Asia and the Pacific, the Copyright and Creative Industries Sector and the Patents and Technology Sector for the support and assistance received towards its accession to the Budapest and Marrakesh Treaties. The Delegation expressed its hope that WIPO would continue to provide support to Malaysia in its journey to be in line with technology advancements and international IP legislations and treaties. The Delegation expressed the commitment of the Government of Malaysia, through the Intellectual Property Corporation of Malaysia, to improve the IP service delivery system, not only by upgrading and modernizing the technology information system, but also by enhancing the skills and knowledge of the examiners.

9. The Delegation of China congratulated the Acting Chair for his election. Noting the two amendments suggested in the document under consideration, the Delegation believed that extending BP Forms language coverage to Chinese and Arabic in order to cover all UN official languages, would be convenient to IDAs, Member States, patents offices, applicants and other

users of the Budapest System. The Delegation welcomed the proposal as an active measure to implement WIPO's language policy. The Delegation further indicated that the inclusion of an email address and telephone number into the Forms would meet the current needs of the Budapest System users and help to increase significantly the efficiency of communication between IDAs, patents offices, depositors and requesters. For those reasons, the Delegation supported the two amendments.

10. The Delegation of Saudi Arabia congratulated the Acting Chair for his election. The Delegation expressed its support for the proposals regarding the Forms under the Budapest Treaty, namely the inclusion of the email address and phone number in the Forms and the amendment of Rule 11.4(a) and (b) of the Regulations under the Budapest Treaty with a view to providing the Forms in the six UN languages.

11. The Delegation of Spain congratulated the Acting Chair for chairing the important session of the Budapest Union Assembly. Recalling the strong commitment of Spain to multilingualism, the Delegation welcomed the proposal that the Forms under the Budapest Treaty be established in all UN official languages and expressed its support to the draft amendment to the rules of the regulations under the Budapest Treaty.

12. The Delegation of the Russian Federation thanked the Secretariat for preparing the document concerning the amendments to the Forms under the Budapest Treaty. The Delegation welcomed the extension of the language regime of the Budapest Treaty in order to make the Forms available in all UN official languages. The Delegation expressed the view that the new elements proposed would help bring WIPO's services to new high quality levels. The Delegation also noted that the inclusion, in the Forms under the Budapest Treaty, of telephone numbers and email addresses would help to guarantee swift communication and correspondence by post among Budapest Treaty users, IP offices, IDAs, depositors of microorganisms and entities requesting samples of deposited microorganisms, which would also make the Budapest System more user-friendly.

13. The Representative of the Intellectual Property Latin American School (ELAPI) thanked the Secretariat for preparing the document on the Forms under the Budapest Treaty and the proposed amendment to the Budapest Treaty. Considering the current context of promoting the inclusion of various global stakeholders in the field of IP, in particular to promote inventions based on the development of biotechnology and microbiology, the Representative believed that incorporating personal details aimed at facilitating the communication between parties during the processing of applications for the international recognition of the deposit of microorganisms before different patent offices would contribute to substantially improving and facilitating direct communication between parties. The Representative added that, while supporting the proposed amendments to the Regulations with the inclusion of languages of the relevant actors in the fields of science and technology, such as Chinese and Arabic, it also believed that it would be appropriate to include the Spanish language as an alternative to French and English languages in Rule 11.4(a) and (b). The Representative highlighted the level of scientific development of technology-based companies and the skills of scientists in the Latin American region, especially considering their active participation in, and their consideration by, large companies in the Northern Hemisphere for the past 10 years. Therefore, the Representative was of the view that its proposal would reduce the communication barriers, in facilitating the access of inventors and applicants of the region to tools that would allow them to protect and promote their technologies, together with a formal recognition of the progress in Latin America in the development of new technologies of global impact in the beginning of the 21<sup>st</sup> century. In concluding, the Representative informed ELAPI's availability to the Assembly, the committees and the Member States, especially in GRULAC, to share ELAPI's academic knowledge and to facilitate inventors and applicants to manage the process aimed at the international recognition of deposits of microorganisms.

14. The Assembly of the Budapest Union:

- (i) fixed the contents of Form BP/12 as set out in paragraph 8 of document BP/A/39/1;
- (ii) took note of the contents of paragraph 9 of document BP/A/39/1;
- (iii) designated the languages of Forms BP/4, BP/5, BP/6 and BP/9 as set out in paragraph 11 of document BP/A/39/1; and
- (iv) adopted the proposed amendments to the Regulations under the Budapest Treaty as set out in Annex II with an entry into force on January 1, 2023.

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