

# WIPO



WO/GA/WG-CR/5/3  
ORIGINAL: English  
DATE: February 5, 2002

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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

## WIPO GENERAL ASSEMBLY WORKING GROUP ON CONSTITUTIONAL REFORM

**Fifth Session**  
**Geneva, February 18 to 21, 2002**

PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY  
- DRAFT TEXTS OF AMENDMENTS TO ADMINISTRATIVE AND  
FINANCIAL PROVISIONS AGREED IN PRINCIPLE

*Document prepared by the Secretariat*

1. At the fourth session of the Working Group on Constitutional Reform ("the Working Group"), the Working Group examined document WO/GA/WG-CR/4/3 ("Paris Convention for the Protection of Industrial Property - Draft Texts of Amendments to Administrative and Financial Provisions Agreed in Principle"). The document sets out draft texts for the implementation of proposals agreed in principle and draft texts of options for issues still under consideration in the context of the Paris Convention as a treaty that typifies the WIPO-administered treaties that establish contribution-financed Unions. The Working Group was unable to complete its discussion of the draft text of modifications, as some delegations expressed the wish to have more time to study the draft texts (see document A/36/10, paragraph 15).
2. As the Working Group did not reach agreement on the outstanding items in the draft text, the following pages of this document reproduce (as an annex to this document) the draft provisions in the same format and content as those originally distributed and discussed at the fourth session of the Working Group, as contained in document WO/GA/WG-CR/4/3.

[Annex follows]

**[FORMERHEADER]**

**WO/GA/WG-CR/4/3**

**ORIGINAL:** English

**DATE:** August 27, 2001

**WIPO GENERAL ASSEMBLY WORKING GROUP ON  
CONSTITUTIONAL REFORM**

**Fourth Session  
Geneva, September 11 to 14, 2001**

PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY  
– DRAFT TEXTS OF AMENDMENTS TO ADMINISTRATIVE AND  
FINANCIAL PROVISIONS AGREED IN PRINCIPLE

*Document prepared by the Secretariat*

1. These sessions of the Working Group on Constitutional Reform (“the Working Group”) held so far have resulted in “agreement in principle” to recommend a number of proposed amendments to the constitutional structure of WIPO and of the Unions administered by WIPO.
2. By “agreement in principle,” the Working Group has intended to signify tentative or provisional agreement to proceed with a particular proposal, subject, nevertheless, to a review of the proposal in the context of the complete set or package of proposals that may emerge from the discussions of the Working Group. In other words, no particular proposal is to be regarded as finally agreed until the discussions of all proposals have been completed to the satisfaction of the Working Group.

3. Document WO/GA/WG -CR/4/2 sets out draft provisions for the implementation, in the Convention Establishing the World Intellectual Property Organization (“the WIPO Convention”), of the various proposed reforms, as well as options for provisions in respect of outstanding proposals on which agreement in principle has not yet been reached. The present document provides draft texts for the implementation of proposals agreed in principle and draft texts of options for issues still under consideration in the context of the Paris Convention for the Protection of Industrial Property (“the Paris Convention”).

4. Each of the WIPO treaties under which an Assembly of contracting parties is established contains standard -form provisions on the establishment and functioning of the Assembly. The provisions of the Paris Convention concerning the Assembly of the Paris Union and other administrative and financial clauses are, in all material respects, the same as corresponding provisions in other contribution- financed WIPO treaties. The draft text provided in the following pages is meant to serve as an illustration of almost identical changes that would need to be made to the other WIPO treaties.

5. In order to facilitate ease of reference and comparison, the Notes concerning each Article reproduce the existing provision of the Paris Convention in a clearly distinguishable box. The proposed re -draft of the relevant provisions or the modifications introduced are represented in **bold italics**, where words have been changed or inserted, or by a ( ----), where words have been deleted without replacement.

**Paris Convention for the Protection  
of Industrial Property**

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**Notes on Article 13**

13.01 Article 13 contains the provisions dealing with the Assembly of the Paris Union. Two main sets of modifications to the provisions of Article 13 are presented for the consideration of the Working Group; first, by way of alternative (Alternative B), a provision is presented which would implement the proposal under consideration that the WIPO General Assembly be made the competent assembly for all the WIPO-administered treaties; and, secondly, also by way of alternative, certain provisions have been placed in square brackets (see Article 13 (2)(a)(iv) and (v)) which would be deleted in the event that the Working Group decided to propose the abolition of the Executive Committee of the Paris Union.

13.02 *Article 13(1)* sets out alternatives for the constitution and operation of the Assembly of contracting States. *Alternative A* maintains the *status quo*, namely, the constitution of the Assembly of the Paris Union as a separate and discreet Assembly whose members are those States that are party to the Stockholm (1967) Act of the Paris Convention.

Of the 162 States party to the Paris Convention, all but 3 are party to the Stockholm (1967) Act. The three States which are party to the Paris Convention but not to the Stockholm (1967) Act of that Convention are the Dominican Republic, Nigeria and the Syrian Arab Republic.

13.03 *Alternative B* of Article 13(1) is intended to implement the proposal under consideration that the WIPO General Assembly be the competent, unitary Assembly for all WIPO-administered treaties. It envisages simply the establishment of the WIPO General Assembly as the competent Assembly for the Paris Union. States which are party to the Stockholm (1967) Act (or later amendments to that Act) would become members of the WIPO General Assembly "for the purposes of matters concerning this Convention." This provision is to be read in conjunction with the corresponding alternative proposed for Article 6(1)(a) of the WIPO Convention (see document WO/GA/WG-CR/4/2).

**Article 13 of the Paris Convention**

**Assembly of the Union**

(1) (a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 13 to 17.

(b) The Government of each country shall be represented by one delegate, whom may be assisted by alternated delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

[continues]

**Article 13**  
**Assembly --**

(1)

*Alternative A*

(a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 13 to 17.

(b) The Government of each country shall be represented by one delegate, whomay be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

*Alternative B*

*The WIPO General Assembly shall be the competent Assembly for the Union. Each country bound by Articles 13 to 17 shall be a member of the Assembly for the purposes of matters concerning this Convention.*

[Article 13 continues]

[Notes on Article 13, continued]

13.04 **Article 13(2)(a)** deals with the powers of the Assembly and remains unchanged, with one exception discussed in the next paragraph. If Alternative B of Article 13(1) were adopted (the unitary Assembly), Article 13(2)(a) would need to be read in conjunction with Article 6(2) of the WIPO Convention (see document WO/GA/WG -CR/4/2). In particular, the alternative provisions in Article 6(2) of the WIPO Convention relating to the unitary Assembly contain a provision which would empower the WIPO General Assembly to exercise “on matters concerning any international agreement administered by the Organization and for which the General Assembly is the competent Assembly, . . . such powers and functions as are accorded by such agreement to the Assembly of contracting parties of that agreement” (see Article 6(2)(ix *bis*) in document WO/GA/WG -CR/4/2).

13.05 If it were decided to adopt the proposal for the WIPO General Assembly to act as a unitary Assembly for all WIPO -administered treaties, several economies could be achieved in the drafting of **Article 13(2)(a), (3) and (8)** to eliminate provisions that already exist in the WIPO Convention and that would not need to be repeated in this Article of the Paris Convention. Into this category fall Article 13(2)(a)(ix), 13(a) and (8). These provisions have been left without amendment in the present draft text pending a decision on the desirability of the unitary Assembly.

### Article 13 of the Paris Convention

[continued]

- (2) (a) The Assembly shall:
- (i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;
  - (ii) give directions concerning the preparation for conferences of revision to 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”), due account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17;
  - (iii) review and approve the reports and activities of the Director General of the Organization concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

[continues]

[Article 13, continued]

- (2) (a) The Assembly shall:
- (i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;
  - (ii) give directions concerning the preparation for conferences of revision to 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"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17;
  - (iii) review and approve the reports and activities of the Director General of the Organization concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

[Article 13 continues]



[Notes on Article 13, continued]

13.06 The exception to the maintenance of the *status quo* in Article 13(2)(a) relates to the provisions in **Article 13(2)(a)(iv) and (v)**. Those provisions concern the Executive Committee of the Paris Union and are set out in square brackets. If the Working Group were to recommend the abolition of the Executive Committee (see Article 14, below), the provisions in square brackets would be deleted.

13.07 **Article 13(2)(b)** concerns the role of the WIPO Coordination Committee. If Alternative C of Article 8 of the WIPO Convention (see document WO/GA/WG -CR/4/2) were adopted (namely, the abolition of the Coordination Committee), Article 13(2)(b) would need to be deleted.

### Article 13 of the Paris Convention

[continued]

- (iv) elect the members of the Executive Committee of the Assembly;
- (v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;
- (vi) determine the program and adopt the biennial budget of the Union, and approve its final accounts;
- (vii) adopt the financial regulations of the Union;
- (viii) establish such committees of experts and working groups as it deems appropriate to achieve the objectives of the Union;
- (ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (x) adopt amendments to Articles 13 to 17;
- (xi) take any other appropriate action designed to further the objectives of the Union;
- (xii) perform such other functions as are appropriate under this Convention;
- (xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(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.

[continues]

[Article 13, continued]

- [(iv) elect the members of the Executive Committee of the Assembly; ]
- [(v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee; ]
- (vi) determine the program and adopt the biennial budget of the Union, and approve its final accounts;
- (vii) adopt the financial regulations of the Union;
- (viii) establish such committees of experts and working groups as it deems appropriate to achieve the objectives of the Union;
- (ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (x) adopt amendments to Articles 13 to 17;
- (xi) take any other appropriate action designed to further the objectives of the Union;
- (xii) perform such other functions as are appropriate under this Convention;
- (xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(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.

[Article 13 continues]

[Notes on Article 13, continued]

13.08 No change is proposed to *Article 13(3)* .

**Article 13 of the Paris Convention**

[continued]

(3) (a) Subject to the provisions of subparagraph (b), a delegate may represent one country only.

(b) Countries of the Union grouped under the terms of a special agreement in a common office possessing for each of them the character of a special national service of industrial property as referred to in Article 12 may be jointly represented during discussion by one of their number.

[continues]

[Article 13, continued]

(3) (a) Subject to the provisions of subparagraph (b), a delegate may represent one country only.

(b) Countries of the Union grouped under the terms of a special agreement in a common office possessing for each of them the character of a special national service of industrial property as referred to in Article 12 may be jointly represented during discussions by one of their number.

[Article 13 continues]

[Notes on Article 13, continued]

13.09 No change is proposed to **Article 13(4) and (5)**.

### **Article 13 of the Paris Convention**

[continued]

(4) (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 17(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(5) (a) Subject to the provisions of subparagraph (b), a delegate may vote in the name of one country only.

(b) The countries of the Union referred to in paragraph (3)(b) shall, as a general rule, endeavor to send their own delegation to the sessions of the Assembly. If, however, for exceptional reasons, any such country cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name, provided that each delegation may vote by proxy for one country only. Such power to vote shall be granted in a document signed by the Head of State or the competent Minister.

[Article 13, continued]

(4) (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 17(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(5) (a) Subject to the provisions of subparagraph (b), a delegate may vote in the name of one country only.

(b) The countries of the Union referred to in paragraph (3)(b) shall, as a general rule, endeavor to send their own delegation to the sessions of the Assembly. If, however, for exceptional reasons, any such country cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name, provided that each delegation may vote by proxy for one country only. Such power to vote shall be granted in a document signed by the Head of State or the competent Minister.

[Article 13 continues]

[Notes on Article 13, continues]

13.10 **Article 13(6)** also remains unchanged. As mentioned above, there are three States party to the Paris Convention which, by virtue of not being party to the Stockholm (1967) Act, are not members of the Assembly of the Paris Union. Of those three States (Dominican Republic, Nigeria and the Syrian Arab Republic), one (the Syrian Arab Republic) is not a member of WIPO (nor of the Berne Union). It would not, therefore, be a member of the WIPO General Assembly, if that body were to act as a unitary Assembly. Article 13(6) would preserve its right to be admitted to meetings of the WIPO General Assembly as observer for matters concerning the Paris Convention.

13.11 **Article 13(7)(a)** implements the proposal that the periodicity of ordinary sessions of the governing bodies of WIPO and the Unions administered by WIPO be changed from once every two years to annually (see, also, Article 6(4) of the WIPO Convention in document WO/GA/WG-CR/4/2).

13.12 **Article 13(7)(b)** deals with the right to convoke extraordinary sessions of the Assembly competent for the Paris Union. One change has been proposed to this provision for consideration. The change is the deletion of the power of the Executive Committee to request the convocation of an extraordinary session of the Assembly. This change is proposed in view of the possible options presented for the composition of the Coordination Committee, one of which envisions de-linking the composition of the Coordination Committee from the Executive Committees of the Paris and Berne Unions (see Alternative B of Article 8 in document WO/GA/WG-CR/4/2). Since the power to convoke an extraordinary session of the Assembly rests with the Director General and with one-fourth of the countries members of the Assembly, the change is not considered to be a significant one in practice.

### Article 13 of the Paris Convention

[continued]

(6) Countries of the Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(7) (a) The Assembly shall meet once in every second 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 the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(8) The Assembly shall adopt its own rules of procedure.

[Article 13, continued]

(6) Countries of the Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(7) (a) The Assembly shall meet once (----) every (-----) calendar year in ordinary session upon convocation by the Director General (----).

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General *or* at the request of (----) one-fourth of the countries members of the Assembly.

(8) The Assembly shall adopt its own rules of procedure.

[End of Article 13]



## Notes on Article 14

14.01 **Article 14** establishes and defines the functions of the Executive Committee of the Paris Union. In the meetings of the Working Group, it has been generally agreed that the Executive Committee has ceased to fulfil any practical function (see documents WO/GA/WG-CR/3, paragraphs 41 to 43, WO/GA/WG-CR/2/4 and WO/GA/WG-CR/2/8, paragraphs 35 to 43). Its importance continues, however, as the technical means by which, together with the Executive Committee of the Berne Union, the composition of the Coordination Committee is determined (see Article 8(1) of the WIPO Convention and document A/36/11).

14.02 The fate of the Executive Committee of the Paris Union therefore depends upon the decision taken by the Working Group with respect to the composition and functions of the WIPO Coordination Committee (see the various proposals with respect to Article 8 of the WIPO Convention in document WO/GA/WG-CR/4/2). In consequence, two alternatives are proposed for Article 14 of the Paris Convention. **Alternative A** envisages the maintenance of the *status quo* with respect to the Executive Committee. **Alternative B** envisages the deletion of Article 14 and, consequently, the abolition of the Executive Committee.

### Article 14 of the Paris Convention Executive Committee

- (1) The Assembly shall have an Executive Committee.
- (2) (a) The Executive Committee shall consist of countries selected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 16(7)(b), have an ex officio seat on the Committee.  
  
(b) The Government of each country member of the Executive Committee shall be represented by one delegate, whom may be assisted by alternated delegates, advisors, and experts.  
  
(c) The expenses of each delegation shall be borne by the Government which has appointed it.
- (3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.
- (4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements established in relation with the Union to be among the countries constituting the Executive Committee.

[continues]

**Article 14**  
**Executive Committee**

*Alternative A*

(1) The Assembly shall have an Executive Committee.

(2) (a) The Executive Committee shall consist of countries selected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 16(7)(b), have an ex officio seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, whom 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.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements established in relation with the Union to be among the countries constituting the Executive Committee.

[Article 14 continues]

[Notes on Article 14, continued]

### Article 14 of the Paris Convention

[continued]

(5) (a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but only up to a maximum of two-thirds of such members.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6) (a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly in respect of the draft program and biennial budget of the Union prepared by the Director General;

(iii) deleted

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) take all necessary measures to ensure the execution of the program of the Union by the Director General, in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7) (a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

[continues]

[Article 14, continued]

(5) (a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but only up to a maximum of two-thirds of such members.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6) (a) The Executive Committee shall:

- (i) prepare the draft agenda of the Assembly;
- (ii) submit proposals to the Assembly in respect of the draft program and biennial budget of the Union prepared by the Director General;
- (iii) deleted
- (iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;
- (v) take all necessary measures to ensure the execution of the program of the Union by the Director General, in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly;
- (vi) perform such other functions as are allocated to it in this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7) (a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

[Article 14 continues]

[Notes on Article 14, continued]

**Article 14 of the Paris Convention**

[continued]

- (8) (a) Each country member of the Executive Committee shall have one vote.
- (b) One-half of the members of the Executive Committee shall constitute a quorum.
- (c) Decisions shall be made by a simple majority of the votes cast.
- (d) Abstentions shall not be considered as votes.
- (e) A delegate may represent, and vote in the name of, one country only.
- (9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.
- (10) The Executive Committee shall adopt its own rules of procedure.

[Article 14, continued]

- (8) (a) Each country member of the Executive Committee shall have one vote.
  - (b) One-half of the members of the Executive Committee shall constitute a quorum.
  - (c) Decisions shall be made by a simple majority of the votes cast.
  - (d) Abstentions shall not be considered as votes.
  - (e) A delegate may represent, and vote in the name of, one country only.
- (9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.
- (10) The Executive Committee shall adopt its own rules of procedure.

***Alternative B***

(----)

**[No Article 14 ]**

[End of Article 14]

**Notes on Article 15**

15.01 Two changes to the provisions of Article 15 are submitted for consideration.

15.02 The first suggested modification is the deletion of paragraph (3), which is proposed as **Alternative B for Article 15(3)** (**Alternative A** being the *status quo*). The reason for considering the deletion of paragraph (3) is that the International Bureau practices continual publication of information on its website.

**Article 15 of the Paris Convention  
International Bureau**

(1) (a) Administrative tasks concerning the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Literary and Artistic Works.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of industrial property. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of industrial property. Furthermore, it shall furnish to the International Bureau with all the publications of its industrial property service of direct concern to the protection of industrial property which the International Bureau may find useful in its work.

(3) The International Bureau shall publish a monthly periodical.

(4) The International Bureau shall, on request, furnish any country of the Union with information on matters concerning the protection of industrial property.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of industrial property.

[continues]

**Article 15**  
**International Bureau**

(1) (a) Administrative tasks concerning the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Literary and Artistic Works.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of industrial property. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of industrial property. Furthermore, it shall furnish the International Bureau with all the publications of its industrial property service of direct concern to the protection of industrial property which the International Bureau may find useful in its work.

(3) *Alternative A*

The International Bureau shall publish a monthly periodical.

*Alternative B*

(----)

(4) The International Bureau shall, on request, furnish any country of the Union with information on matters concerning the protection of industrial property.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of industrial property.

[Article 15 continues]



[Notes on Article 15, continued]

15.03 These second modifications suggested for consideration is the deletion of the references to the Executive Committee in *paragraphs (6) and (7)*. The fate of this modification depends upon the Working Group's decision with respect to the abolition of the Executive Committee by the deletion of Article 14.

#### **Article 15 of the Paris Convention**

[continued]

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(7) (a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 13 to 17.

(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 these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

[Article 15, continued]

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly [ , the Executive Committee, ] and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(7) (a) The International Bureau shall, in accordance with the directions of the Assembly [ and in cooperation with the Executive Committee, ] make the preparations for the conferences of revision of the provisions of the Convention other than Articles 13 to 17.

(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 these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

[End of Article 15]

**Notes on Article 16**

16.01 *Article 16* contains the financial provisions of the Paris Convention. The existing provisions no longer reflect the practice of the Paris Union and WIPO as a consequence of the reforms adopted by the competent Assemblies of WIPO and the Unions administered by WIPO in 1989 and 1991 (for certain changes in classes of contribution) and in 1993 (for the unitary contributions system and for further changes to classes of contribution). A full description of those changes in practice is set out in document WO/GA/WG -CR/2, paragraphs 16 to 50.

16.02 The proposals set out in Article 16 seek to align the provisions of Article 16 with the new practice of the Paris Union and WIPO with respect to classes of contribution and the unitary contributions system. As such, they need to be read in conjunction with the proposals set out for Article 11 of the WIPO Convention in document WO/GA/WG -CR/4/2.

16.03 It is proposed that *Article 16(1)(a)* of the existing text of the Paris Convention be deleted. Since the introduction of the unitary contributions system, the budget of the Paris Union is part of the budget of the contribution -financed Unions in the Program and Budget of the Organization and the Unions administered by WIPO.

16.04 The wording of *Article 16(1)(b)* has been modified so as to require transparency and fairness in the presentation of the income and expenses of the Paris Union in the budget of the Organization. The provision is intended to assist the Member States in their review and supervision of the finances of the Paris Union and the Organization.

16.05 A decision will need to be made as to whether to continue the attribution of shares in the “expenses common to the Unions” between the Organization and the various Unions. The attribution of such shares in this way might be considered to be an unnecessarily complicated exercise which may necessitate arbitrary judgements. Thus, the provisions relating to “expenses common to the Unions” in *Article 16(1)(b) and (c)* have been placed in square brackets for review (see, also, the corresponding references in Article 11(1)(a) and (b) of the WIPO Convention in document WO/GA/WG -CR/4/2).

**Article 16 of the Paris Convention**

**Finances**

(1) (a) The Unions shall have a budget.

(b) The budget of the Unions shall include the income and expenses proper to the 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 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 Union in such common expenses shall be in proportion to the interest the Union has in them.

[continues]

**Article 16**

**Finances**

(1) (a) (----)

(b) The (----) income and expenses proper to the Union [ *and the Union's* contribution to the expenses common to the Unions] ***shall be reflected in the budget of the Organization in a fair and transparent manner.***

[(c) Expenses not attributable exclusively to the 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 Union in such common expenses shall be in proportion to the interest the Union has in them. ]

[Article 16 continues]

16.06 It is suggested that **Article 16(2)** be deleted as no longer necessary.

16.07 Several amendments are suggested to **Article 16(3)**, but these are largely of a formal nature. Thus, "budget of the Union" is replaced by "income of the Union" to reflect the fact that the budgets of the various Unions administered by WIPO and of the Organization are presented in a single document of an inter-connected nature.

#### **Article 16 of the Paris Convention**

[continued]

(2) The budget of the Unions 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 Unions shall be financed from the following sources:

- (i) contributions of the countries of the Union;
- (ii) fees and charges due for services rendered by the International Bureau in relation to the Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;
- (iv) gifts, bequests, and subventions;
- (v) rents, interests, and other miscellaneous income.

[continues]

[Article 16, continued]

(2) (----)

(3) The *income* of the Union shall be *derived* from the following sources:

- (i) contributions of the countries of the Union;
- (ii) fees and charges due for services rendered by the International Bureau (----);
- (iii) sale of, or royalties on, the publications of the International Bureau (----);
- (iv) gifts, bequests, and subventions;
- (v) rents, interests, and other miscellaneous income.

[Article 16 continues]

[Notes on Article 16, continued]

16.08 Several amendments are proposed in relation to **Article 16(4)(a) and (b)** to reflect the unitary contributions system and the changes in contribution classes that have been introduced in the practice of the Organization and the Unions administered by WIPO. These suggested amendments correspond to similar amendments suggested to Article 11(4) in the WIPO Convention in document WO/GA/WG -CR/4/2.

**Article 16 of the Paris Convention**

[continued]

(4) (a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I.....	25
Class II.....	20
Class III.....	15
Class IV.....	10
Class V.....	5
Class VI.....	3
Class VII.....	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce such change to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the said session.

[continues]

[Article 16, continued]

(4) (a) For the purposes of establishing its contribution (----), each country of the Union shall belong to a class, and shall pay its annual contribution on the basis of *the* number of units *assigned to that class* (----).

[Article 16 continues]



[Notes on Article 16, continued]

16.09 **Article 16(4)(a)** maintains the existing class system for the establishment of contributions. Unlike the corresponding provision in the existing text of Article 16(4)(a) of the Paris Convention, however, the provision does not set out the various classes and the units assigned to them. Rather, it is proposed that the number of classes and the number of units assigned to each class be established by the competent Assembly pursuant to the provisions of Article 16(4)(b). In this way, some flexibility for dealing with potential future changes in the classes and the units assigned to classes will exist. At present, the classes that exist for contributions in respect of membership in any of the contribution-financed Unions (it being recalled that a single contribution is now paid) are as follows:

–	Class I	25	
–	Class II	20	
–	Class III	15	
–	Class IV	10	
–	Class IV <i>bis</i>	7.5	
–	Class V	5	
–	Class VI	3	
–	Class VI <i>bis</i>	2	
–	Class VII	1	
–	Class VIII	1/2	
–	Class IX	1/4	
–	Class S	1/8	Applicable to developing countries having contributions under the United Nations scale of assessment between 0.02% and 0.10%.
–	Class S <i>bis</i>	1/16	Applicable to developing countries, other than least developed countries, having contributions under the United Nations scale of assessment of 0.01%.
–	Class S <i>ter</i>	1/32	Applicable to least developed countries having contributions under the United Nations scale of assessment of 0.01%.

16.10 **Article 16(4)(b)** offers two alternatives for the competent organ to establish the number of classes and the number of units applicable to classes. The alternatives depend upon whether the Working Group decides to recommend that the WIPO General Assembly function as a unitary Assembly (see Article 13, above).

16.11 **Alternative A** would apply if the proposal for the WIPO General Assembly to act as a unitary Assembly is not pursued. Under Alternative A, the number of classes and the units applicable to those classes would be decided by the Assembly of the Paris Union in conjunction with the Assemblies of the other contribution-financed Unions (it being recalled that a unitary or single contribution is payable).

16.12 **Alternative B** would apply if the WIPO General Assembly were to act as a unitary Assembly and thus become competent for the Paris Union. It is recalled that, in such an event, the voting rights governing the WIPO General Assembly as a unitary Assembly would preclude any member of the Assembly which is not party to the Paris Convention from voting in respect of matters related only to the Paris Convention (see Article 6(3) of the WIPO Convention in document WO/GA/WG-CR/4/2).

[Article 16(4), continued]

**(b) *The number of classes applicable to the countries of the Union, and the units assigned to each such class, shall be established by***

***Alternative A***

***the Assembly in conjunction with the Assemblies of the other Unions whose constituent treaties provide for the payment of a contribution, in accordance with the provisions of such treaties.***

***Alternative B***

***the WIPO General Assembly.***

[Article 16 continues]

[Notes on Article 16, continued]

16.13 **Article 16(4)(c)** (formerly Article 16(4)(b)) contains only one suggested modification. That modification would make the choice of any country to change classes conditional on satisfying any conditions of eligibility attached to any particular class (such conditions apply in the practice of the present system in the lowest classes).

16.16 **Article 16(4)(d)** (formerly Article 16(4)(c)) contains only a formal amendment consisting of the replacement of the words “budget of the Union” by the words “budget of the Organization.”

16.17 **Article 16(4)(e)** (formerly Article 16(4)(d)) remains unchanged.

16.18 No change is proposed to **Article 16(4)(f)** (formerly Article 16(4)(e)).

16.19 Amendments have been introduced to **Article 16(4)(g)** (formerly Article 16(4)(f)) to reflect the fact that the income and expenses of the Paris Union are represented in the same document as the Program and Budget of the Organization and the Unions administered by WIPO.

### **Article 16 of the Paris Convention**

[continued]

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any of the organs of the Union of which it is a member 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 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.

(f) 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

[continues]

[Article 16, continued]

(c) Unless it has already done so, each country shall, **subject to any conditions governing eligibility for membership of any classes**, indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may, **subject to any conditions governing eligibility for membership of any classes**, change class. If it chooses a lower class, the country must announce such change to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the said session.

(d) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the budget of the **Organization** by all countries as the number of its units is to the total of the units of all contributing countries.

(e) Contributions shall become due on the first of January of each year.

(f) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any of the organs of the Union of which it is a member 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 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.

(g) If the budget of the **Organization** is not adopted before the beginning of a new financial period, **income and expenses proper to the Union [and the Union's contribution to the expenses common to the Unions]** shall be at the same level as **they were** in the previous year, as provided in the financial regulations.

[Article 16 continues]

[Notes on Article 16, continued]

16.20 The reference to Executive Committee of the Paris Union has been placed in square brackets in *Article 16(5)* pending a decision on the maintenance of that body (see Article 14, above).

16.21 *Article 16(6)* remains unchanged.

#### **Article 16 of the Paris Convention**

[continued]

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(6) (a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the 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 payments 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.

[continues]

[Article 16, continued]

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly [and the Executive Committee], by the Director General.

(6) (a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the 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 payments 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.

[Article 16 continues]

[Notes on Article 16, continued]

16.22 *Article 16(7)* contains only one suggested amendment. The reference to the Executive Committee in *Article 16(7)(a)* is now presented as an alternative ( *Alternative A* ). The other alternative ( *Alternative B* ) would apply if the Executive Committee of the Paris Union were abolished. In this event, it would provide that the host country enjoys an *ex-officio* seat on the WIPO Coordination Committee.

16.23 No change is proposed to *Article 16(8)*.

### Article 16 of the Paris Convention

[continued]

(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 these 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. As long as it remains under the obligation to grant advances, such country shall have an *ex-officio* seat on the Executive Committee.

(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 Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

[Article 16, continued]

(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 these 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. As long as it remains under the obligation to grant advances, such country shall have an ex officio seat on the [ *Alternative A:* Executive Committee] [ *Alternative B:* Coordination Committee of 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 Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

[End of Article 16]



**Notes on Article 16 bis**

16bis.01 The proposals under consideration for the revision of Article 13 to 17 of the Paris Convention are linked to corresponding proposals for the revision of the WIPO Convention. In particular, if the proposal for the WIPO General Assembly to act as unitary assembly were to be adopted, it would be necessary to coordinate the entry into force of the provisions in the Paris Convention providing for the WIPO General Assembly to be the competent assembly for the Paris Union and the corresponding provisions in the WIPO Convention empowering the WIPO General Assembly to perform the functions assigned to the Assembly of the Paris Union. **Article 16bis** is intended to achieve this coordination. It provides that the proposed amendments to Article 13 to 17 of the Paris Convention shall not enter into force until not only the conditions of Article 17 of the Paris Convention (which set up the constitutional mechanism for the amendment of Article 13 to 17) are fulfilled, but also the corresponding amendments to the WIPO Convention have entered into force. ot

*Article 16bis*

*Entry into force of [2002] Amendments*

*The amendments to Articles 13, 14, 15, 16 and 17 approved in [2002] shall not enter into force until the conditions of Article 17 with respect to amendments have been satisfied and the amendments to the Convention Establishing the World Intellectual Property Organization approved in [2002] enter into force.*

*[End of Article 16bis]*

**Notes on Article 17**

17.01 *Article 17* is unchanged except for the reference to the Executive Committee in the Article 17(1), which has been placed in square brackets, pending a decision upon the maintenance or abolition of that body.

**Article 17 of the Paris Convention**

**Amendment of Articles 13 to 17**

(1) Proposals for the amendment of Articles 13, 14, 15, 16, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly 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. Adoptions shall require three-fourths of the votes cast, provided that any amendment to Article 13, 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 Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly 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 Union shall bind only those countries which have notified their acceptance of such amendment.

**Article 17**

**Amendment of Articles 13 to 17**

(1) Proposals for the amendment of Articles 13, 14, 15, 16, and the present Article, may be initiated by any country member of the Assembly [by the Executive Committee,] or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly 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 13, 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 country members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly 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 Union shall bind only those countries which have notified their acceptance of such amendment.

[End of Article 17]

**Notes on Article 18**

18.01 No change is proposed to this Article.

**Article 18 of the Paris Convention**  
**Revision of Articles 1 to 12 and 18 to 30**

- (1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.
- (2) For that purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.
- (3) Amendments to Articles 13 to 17 are governed by the provisions of Article 17.

**Article 18**  
**Revision of Articles 1 to 12 and 18 to 30**

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For that purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Amendments to Articles 13 to 17 are governed by the provisions of Article 17.

[End of Article 18]

[End of Annex and of document]