

No. 11528

MULTILATERAL

Agreement concluded at The Hague on 6 June 1947 concerning the establishment of an International Patents Bureau as revised at The Hague on 16 February 1961 (with protocol). Done at The Hague on 16 February 1961

Authentic text: French.

Registered by the Netherlands on 26 January 1972.

MULTILATÉRAL

Accord de La Haye du 6 juin 1947 relatif à la création d'un Bureau international des brevets révisé à La Haye le 16 février 1961 (avec protocole). Fait à La Haye le 16 février 1961

Texte authentique: français.

Enregistré par les Pays-Bas le 26 janvier 1972.

[TRANSLATION — TRADUCTION]

AGREEMENT CONCLUDED AT THE HAGUE ON 6 JUNE
1947¹ CONCERNING THE ESTABLISHMENT OF AN
INTERNATIONAL PATENTS BUREAU AS REVISED AT
THE HAGUE ON 16 FEBRUARY 1961²

The Contracting States,

Considering article 15 of the Convention for the Protection of Industrial Property, signed at Paris on 20 March 1883³ and revised most recently at Lisbon on 31 October 1958;⁴

Aware of the desirability of modifying certain provisions of the Agreement concerning the Establishment of an International Patents Bureau, signed at The Hague on 6 June 1947;¹

Have for this purpose appointed Plenipotentiaries who have agreed on the following provisions:

Article 1

1. The function of the International Patents Bureau established by the Agreement signed at the Hague on 6 June 1947, known as the International Patents Institute, is to provide reasoned opinions regarding the novelty of inventions in respect of which applications for patents have been filed with or

¹ United Nations, *Treaty Series*, vol. 46, p. 249.

² Came into force on 30 December 1971 in respect of the following States, i.e. after the date of the deposit with the Government of the Netherlands of all the instruments of ratification by those signatory States already parties to the Agreement of 6 June 1947, in accordance with article 19:

<i>State</i>	<i>Date of deposit</i>
Belgium	1 October 1969
France	13 June 1962
Luxembourg	23 December 1963
Monaco	13 December 1962
Netherlands (For the Kingdom in Europe, Surinam and the Netherlands Antilles.)	4 September 1963
Switzerland	3 May 1962
Turkey	30 November 1971

³ *British and Foreign State Papers*, vol. 74, p. 44; vol. 92, p. 807, and vol. 104, p. 116; League of Nations, *Treaty Series*, vol. LXXIV, p. 289, and vol. CXCH, p. 17.

⁴ United Nations, *Treaty Series*, vol. 828, No. I-11847.

patents have been issued by the national administration of each member State or by any intergovernmental international organization which, meeting the definition in article 2, is a member of the Institute.

For the purpose of this Agreement, applications for patents deposited with the national administration of a member State solely for transmission to the administration of another State or to an intergovernmental international organization shall not be regarded as applications filed with the former administration.

2. In addition, the Institute may, subject to the prior agreement of the Board of Administration set up under article 6, furnish opinions different in nature from those provided for in paragraph 1 of this article, on inventions referred to in that paragraph.

3. The Institute may also undertake documentary research on the state of the relevant technology on behalf of any applicant.

Article 2

Any intergovernmental international organization whose function is to grant patents for inventions and which entrusts the Institute with the task of preparing reasoned opinions as provided for in article 1, paragraphs 1 and 2, may, by means of an agreement concluded with the Institute in the conditions laid down in article 9, paragraph 1, become a member of the Institute with the rights and obligations defined in articles 5, 6, 8, 9, 12, 13, 14 and 17 of the present Agreement and in article 1 of the Protocol.

The Protocol shall form an integral part of the present Agreement.

Article 3

The reasoned opinion referred to in article 1, paragraph 1, shall be a documentary opinion based on research whose nature and scope are laid down in article 1, paragraphs 1, 2 and 3 of the Protocol.

Article 4

Member States undertake to provide in their national legislation or by means of international agreements that all or some of the applications for patents or patents effective in their territory must be the subject of a reasoned opinion as referred to in article 1, paragraph 1.

Article 5

In order to be in a position to discharge its duties, the Institute shall have the right to receive, free of charge, from member States or organizations, patent specifications issued and applications for patents published by the administrations of such States or by such organizations.

Article 6

1. The Institute shall be administered by a Board of Administration composed of representatives of member States and organizations, there being one representative from each State or organization.

2. Any member State may, if necessary, empower the representative of another member State to represent it on the Board. No member of the Board may, however, represent more than two States.

3. The Board shall draw up its rules of procedure and appoint its chairman annually. It shall meet at the request of its chairman, one third of its members or, in case of emergency, the Director of the Institute.

Article 7

In addition to the tasks devolving upon it by virtue of other provisions of the present Agreement, the Board of Administration shall determine the general policy of the Institute, regulate and supervise the work of the latter and in particular:

- (1) Draw up the necessary regulations for the implementation of this Agreement and supervise their application;
- (2) Adopt the annual budget and any necessary amending or additional budgets and supervise their implementation;
- (3) Audit and approve the annual accounts and inventory;
- (4) Approve the annual report on the work of the Institute;
- (5) Appoint the Director and Financial Controller of the Institute from among nationals of member States, fix the remuneration of each of them and their fringe benefits and exercise disciplinary authority over them;
- (6) Provide the Director with the necessary general directives and the Financial Controller with all necessary instructions and ensure that they are carried out;

- (7) Draw up the list of managerial posts and, after consulting the Director, appoint persons to those posts, establish their remuneration and fringe benefits and exercise disciplinary authority over them;
- (8) Draw up the staff regulations;
- (9) Fix the complement of the staff and their salary scale, and the nature, and rules governing the granting, of their fringe benefits;
- (10) Authorize the Director to exercise the legal capacity of the Institute in accordance with the provisions of article 11.

Article 8

1. In the case of decisions of the Board of Administration requiring a vote, a vote shall be taken in which the representative of each member State or organization shall have one vote.

Nevertheless, in the case of questions affecting the annual contribution of a member State or organization and irrespective of the result of the voting, the representative of any member State or organization may call for a second vote in which the allocation of votes shall be regulated in accordance with the provisions of paragraphs 2, 3 and 4 of this article. The decision shall be established by such second vote.

2. In the second vote, the representative of each member State or organization shall have ten votes, to which shall be added a number of votes equal to the quotient of the amount of the annual contribution of such State or organization, as defined in article 13, paragraph 3, divided by the unit of account defined in subparagraph 3 of this paragraph.

The number of votes thus allocated shall be rounded to the next highest whole number. The total number of votes allocated to the representative of a member State or organization may not, however, exceed five times the total number of votes possessed by the representative of another member State or organization.

The unit of account shall be equal to the quotient of the sum of annual contributions of member States and organizations divided by the number obtained by multiplying the number of member States and organizations by ten.

3. The number of votes allocated to the representative of each member State or organization shall be determined at the beginning of each year on the basis of contributions for the penultimate year.

4. For the period following the accession of a State or organization, during which the provisions of paragraph 3 of this article cannot be applied, the number of votes possessed by the representative of that member State or organization shall be fixed by the Board.

Article 9

1. Decisions of the Board of Administration on the following matters shall require a two-thirds majority of the total votes possessed by the representatives of member States and organizations:

- (a) The conclusion of agreements with States or intergovernmental international organizations and the adoption or amendment of regulations necessary for the application of such agreements;
- (b) The adoption or amendment of regulations necessary for the application of the present Agreement, including those relating to the regulations covering the various categories of staff;
- (c) Preparation of the opinions referred to in article 1, paragraph 2;
- (d) Appointment of the Director;
- (e) Modification of the accounting system provided for in article 13, paragraph 2;
- (f) Establishment of the decentralized services referred to in article 17.

2. Other decisions shall require a simple majority of the total votes cast for or against.

If the votes are equally divided, a second vote shall be taken; any further equal division of votes shall be equivalent to a rejection of the proposed decision.

Article 10

The Director shall be responsible for the management of the Institute in accordance with the provisions of the Protocol, the regulations drawn up by the Board of Administration and the general directives of the Board.

Article 11

1. The Institute shall have legal personality. In each member State, it shall enjoy the widest legal capacity accorded to juridical persons by the national legislation.

2. The Director shall be responsible for exercising the legal capacity of the Institute within the limits fixed by the Protocol.

Article 12

1. Member States and organizations shall make an initial contribution.

2. The initial contributions of States shall be determined by the number of units of the class in which they have been placed pursuant to the provisions of article 13, paragraphs 8 and 9, of the Convention for the Protection of Industrial Property, signed at Paris on 20 March 1883 and revised most recently at Lisbon on 31 October 1958. The amount of the unit shall be equal to the exchange value of two kilogrammes of pure gold at the market price of the country in which the headquarters of the Institute is situated on the date of accession.

3. The initial contribution of organizations shall be determined by the agreement concluded with the Institute referred to in article 2.

Article 13

1. The annual expenses of the Institute shall be covered by:

- (a) The annual contributions of member States and organizations;
- (b) Payment received for the services referred to in article 1, paragraph 3;
- (c) All other receipts and in particular income deriving from the property of the Institute.

2. The annual expenses of the Institute shall be divided into management expenses and examination expenses.

The division shall be effected in accordance with an accounting system adopted by simple majority of the Board of Administration and, if necessary, amended by the qualified majority referred to in article 9, paragraph 1. The accounting system shall be established on the basis of a report by chartered accountants appointed by the Board.

On the basis of the accounting system, the Board shall determine the percentage of management expenses. This percentage shall be fixed every five years for the following five-year period.

3. The annual contributions of member States and organizations shall cover the amount of annual expenses, minus the payments and receipts referred to in paragraph 1, subparagraphs (b) and (c) of this article.

The share covering the management expenses shall be divided between member States and organizations in proportion to coefficients which, for each of them, shall be equal to the quotient, rounded to the next highest unit, of the division by one thousand of the number of patent applications received by the administration of each State or by each organization in the course of the year relating to the budget year in question.

The share covering examination expenses shall be divided in proportion to the number of opinions, referred to in article 14, requested of the Institute in the course of the budget year in question.

4. Before the beginning of each budget year, the Board shall fix the provisional amount each member State or organization should contribute towards management expenses during that budget year and the contract rates applicable during that budget year to the requests for opinions referred to in article 14.

Payments thus made shall constitute advances on the annual contributions of member States or organizations for the budget year in question.

5. With a view to determining the aforementioned annual contributions, the Board shall fix, for the opinions referred to in article 1, paragraph 2, of this Agreement and article 1, paragraphs 2 and 3 of the Protocol, co-efficients proportional to the amount of work needed to prepare such opinions, in relation to the amount of work required to prepare opinions based on the research work defined in article 1, paragraph 1, of the Protocol.

6. The Board shall fix the rate of payment for the services referred to in article 1, paragraph 3; the amount may not be lower than the total management and examination costs necessitated by the provision of such services.

Article 14

1. In order to determine the annual contribution of each member State, for which provision is made in article 13, paragraph 3, subparagraph 3:

- (a) The reasoned opinions referred to in article 1, paragraphs 1 and 2, requested or transmitted by the national administration of the State shall be taken into consideration;
- (b) Subject to notification to the Institute, the reasoned opinions referred to in article 1, paragraphs 1 and 2, requested by physical or juridical persons in conditions determined by the member State, may also be taken into consideration.

2. In the case of member organizations, only the reasoned opinions referred to in article 1, paragraphs 1 and 2, requested by such organizations shall be taken into consideration in determining the share of the annual contribution for which provision is made in article 13, paragraph 3, subparagraph 3.

Article 15

1. The Institute may participate in the preparation or implementation of international agreements concerning the protection of industrial property in so far as such agreements concern its work.

2. It may be represented in organizations established by such agreements.

Article 16

1. The headquarters of the Institute is situated at The Hague.

2. The Institute is under the protection of the Government of the Netherlands.

Article 17

1. When the preparation of opinions requested by a member State or organization necessitates documentary research in a language other than Dutch, English, French or German, the Institute may establish decentralized services to undertake the work; any additional financial costs which may result shall be borne by the State or organization concerned.

2. The Institute shall have the same power in order to satisfy special needs of member States or organizations.

Article 18

1. This Agreement shall remain open until 31 December 1961 for signature by any State Party to the Convention for the Protection of Industrial Property, signed at Paris on 20 March 1883 and revised most recently at Lisbon on 31 October 1958.

2. It shall be ratified and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 19

1. This Agreement shall enter into force one month after the deposit of all the instruments of ratification of signatory States which are Parties to the Agreement of 6 June 1947.

2. In the case of any signatory State which is not a Party to the Agreement of 6 June 1947, this Agreement shall enter into force on the date provided for in paragraph 1 of this article if the instrument of ratification has been deposited before the last of the instruments of ratification referred to in the aforementioned paragraph or, if the instrument of ratification is deposited later, one month after its deposit.

Article 20

1. Any non-signatory State which is a Party to the Convention referred to in article 18 may accede to the present Agreement.

2. The instruments of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

3. The accession shall take effect on the date of the entry into force of the present Agreement. If the instrument of accession is deposited after that date, the accession shall take effect one month after its deposit, unless a later date has been indicated in the instrument of accession.

Article 21

Any State Party to the present Agreement may denounce it by written notification to the Ministry of Foreign Affairs of the Netherlands. The denunciation shall take effect on 31 December of the second year following that in which the Ministry of Foreign Affairs of the Netherlands received the notification.

Article 22

1. The present Agreement shall be revised periodically with the purpose of introducing into it amendments likely to improve the services rendered by the Institute and of developing, if need be, its field of activity.

2. In the interval between such revisions, the Protocol and its annex may be amended by a conference of representatives of member States with

immediate effect, unless the conference has fixed a later date for the entry into force of the amendments. Such amendments shall be decided upon unanimously by the States represented.

Article 23

The Ministry of Foreign Affairs of the Netherlands shall notify signatory or acceding States of:

- (1) Signatures and the deposit of instruments of ratification;
- (2) The deposit of instruments of accession and the date on which such accessions take effect;
- (3) The date on which the present Agreement enters into force pursuant to the provisions of article 19;
- (4) The denunciations provided for in article 21 and the date on which they take effect;
- (5) The text of amendments made to the Protocol and its annex in the conditions laid down in article 22, paragraph 2.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having presented their full powers, found in good and due form, have signed the present Agreement.

DONE at The Hague on 16 February 1961 in a single copy in the French language which will be deposited in the archives of the Government of the Netherlands. A certified true copy shall be forwarded through the diplomatic channel by the latter Government to the Government of each signatory or acceding State.

For Belgium :

VAN DER STRATEN
HAMELS

For France :

A. JORDAN
G. FINNISS

For Luxembourg :

J. KREMER

For Morocco :¹

¹ The Agreement was subsequently signed on behalf of Morocco on 28 June 1961.

For Monaco :

JEAN REY

For the Netherlands :

G. VELDKAMP

C. J. DE HAAN

For Switzerland :

HANS MORF

For Yugoslavia :

Subject to ratification

VLADIMIR SAVIĆ

PROTOCOL

Article 1

1. For the research referred to in article 3 of the Agreement, the documents mentioned in the annex to this Protocol shall constitute the minimum documentation to be consulted. The documents contained in the subdivisions of the classification system in use at the Institute to which the invention submitted for examination belongs by virtue of its nature and the documents contained in related subdivisions shall be taken into consideration.

2. Any member State or organization shall have the right to require opinions based on more limited research than that defined in paragraph 1 of this article.

However, unless the Board of Administration unanimously decides to the contrary, this right may not be exercised with respect to applications for patents or patents which, by virtue of assertion of a right of priority, concern the same invention as another application for patent, or another patent, which was the subject of a former opinion based on research work such as that defined in paragraph 1 of this article.

3. Subject to the prior agreement of the Board, any member State or organization may obtain opinions based on more extensive research than that defined in paragraph 1 of this article.

Article 2

Within the limits of the competence vested in him by article 10 of the Agreement, the Director shall:

- (1) Prepare and administer the budget;
- (2) Submit the annual accounts and inventory to the Board of Administration;
- (3) Recruit and appoint the staff except those referred to in article 7, subparagraphs (5) and (7), of the Agreement;
- (4) Decide on the promotion of the staff members he appoints and exercise disciplinary authority over them;
- (5) Submit annually to the Board a report on the work of the Institute;
- (6) Have the right to assist at the deliberations of the Board, except in the cases provided for in article 7, subparagraph (5) of the Agreement and when such deliberations concern members of the Board only.

Article 3

The authorization of the Board of Administration, certified by the signature of its Chairman, shall be required for exercise of the legal capacity of the Institute in the following cases:

- (1) Legal proceedings, except those of a conservatory nature;
- (2) Acts concerning the acquisition and transfer of immovable property, those concerning ownership of such property and those concerning the construction of buildings;
- (3) All other acts relating to transactions the amount of which exceed the exchange value of 20 kilogrammes of pure gold.

Article 4

In case of the prolonged absence of the Director or if his post becomes vacant, the powers provided for in article 10 of the Agreement and article 2 of this Protocol shall be exercised by an official designated by the Board of Administration.

ANNEX TO THE PROTOCOL

List of documents referred to in article 1, paragraph 1, of the Protocol which must be included in the documentation used by the International Patents Institute:

A. Patents

1. German patents	from the year	1877
2. American patents (United States of America)		1921
3. Belgian patents		1926
4. British patents		1909
5. French patents		1902
6. Luxembourg patents		1947
7. Netherlands patents		1912
8. Swiss patents		1940

B. Published applications for patents

1. Applications for German patents	from the year	1957
2. Applications for Netherlands patents		1912
3. Applications for Swiss patents		1961

C. Periodicals and technical books

Periodicals and technical books in Dutch, English, French and German, selected from among the most important.

The documentation referred to under A, B and C shall be kept up to date regularly.