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UPOV**C/VIII/13****ORIGINAL:** English**DATE:** October 8, 1974**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**

GENEVA

COUNCIL**Eighth Ordinary Session
Geneva, October 24 to 26, 1974**RULES AND REGULATIONS
OF UPOVcompiled by the Office of the Union

In order to facilitate its daily work, the Office of the Union has collected, in cooperation with the Administrative Division of WIPO, the rules and regulations of UPOV as amended by the Council of UPOV in previous meetings. This collection has been given the document number UPOV/INF/1. A copy of it is being distributed together with this document, for information, on the assumption that it may prove helpful to the members of the Council in preparing the annual meetings.

[End of document]

UPOV/INF/1

**RULES AND REGULATIONS OF UPOV
AS OF SEPTEMBER 1, 1974**

UPOV

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

UPOV

INF/1

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

RULES AND REGULATIONS OF UPOV

AS OF SEPTEMBER 1, 1974

This document contains the updated version of the following rules and regulations:

Part I

Rules of Procedure for Technical and Administrative Cooperation between the International Union for the Protection of New Varieties of Plants and the World Intellectual Property Organization.

Part II

Rules of Procedure of the Council of UPOV.

Part III

Financial Regulations of UPOV. (They consist, mutatis mutandis, of the Financial Regulations and Rules applied by WIPO subject to certain provisions specific to UPOV. The text of the Regulations and Rules applied by WIPO is included, for convenience sake, in the present document as Part III**bis** and is suitably annotated to reflect the provisions specific to UPOV.)

Part IV

Administrative Regulations of UPOV. (They consist, mutatis mutandis, of the Staff Regulations and Rules of WIPO subject to certain provisions specific to UPOV. The Regulations and Rules of WIPO are not reproduced in the present document.)

Part I

Original: French

Rules of Procedure for Technical and Administrative Cooperation
between the Union for the Protection of New Varieties of Plants
and the World Intellectual Property Organization*

Article 1Seat of UPOV

The seat of UPOV shall be at Geneva with WIPO.

Article 2Secretary-General of UPOV

The person who is at the present time Director General of WIPO, and any person who, in the future, is Director General of WIPO, shall be the Secretary-General of the Office of UPOV (hereinafter called "the Secretary-General").

Article 3Vice Secretary-General of UPOV

- (1) There shall be established a post of Vice Secretary-General.
- (2) Notwithstanding the hierarchical subordination of the Vice Secretary-General to the Secretary-General, the Vice Secretary-General shall have the right:
 - (a) to be present at all the meetings of the Council of UPOV,
 - (b) to report directly to the Council of UPOV whenever he is in disagreement with any act, plan or proposal of the Secretary-General.

Article 4Plant Varieties Department

- (1) A Plant Varieties Department shall be established within the Office of UPOV, which will be responsible for all questions relating to the substance of the Convention for the Protection of New Varieties of Plants and for all activities concerning international cooperation in the field of the protection of new plant varieties.
- (2) Subject to the responsibilities of the Secretary-General, the said Department shall be under the direction of the Vice Secretary-General.

* As approved by the Government of the Swiss Confederation on October 21, 1969, and amended on August 23, 1973, in accordance with Article 25 of the Convention for the Protection of New Varieties of Plants signed in Paris on December 2, 1961 (see document UPOV/C/IV/6, Annex, and document UPOV/C/VII/7).

Article 5Appointments and Dismissals

(1) The Council of UPOV, before making proposals regarding the appointment of any official of the senior grade in the Office of UPOV, and the Swiss Government, before proceeding with such appointment, shall hear the opinion of the Secretary-General and of the Vice Secretary-General.

(2) The same shall apply before terminating the appointment of an official of the senior grade.

(3) "Official of the senior grade" shall mean any official whose post is classified P.4 or above.

Article 6Remuneration

(1) The Secretary-General shall receive a salary whose annual amount is fixed by the Council in agreement with the Swiss Government as a percentage of his salary as Director General of WIPO.

(2) The post of Vice Secretary-General shall be classified as grade D.1/D.2, at a step which is to be determined with due regard to the experience of the person appointed.

(3) The posts of other officials of the senior grade shall be classified P.5 or P.4 in accordance with the procedure laid down in the Staff Regulations and Rules.

Article 7Administrative Services

(1) WIPO shall satisfy the requirements of the Office of UPOV as regards:

- (a) premises, their upkeep (cleaning, heating, lighting) and their furnishing and equipment (furniture, office machinery, telephones),
- (b) financial administration (internal audit, receiving and disbursement of funds, etc.),
- (c) mail and documents (typing, reproduction, incoming and outgoing mail, registration of mail, etc.),
- (d) organization of meetings (rooms, interpreters, sound recording) as well as the organization of travel (tickets, hotel reservations, etc.),
- (e) purchase of material, equipment and office furniture,
- (f) translation of documents,
- (g) publications (printing, distribution, sales, subscriptions),
- (h) the personnel service,
- (i) any other service which may be agreed between UPOV and WIPO.

(2) The requirements of UPOV shall be met on a basis of strict equality with the requirements of the other Unions administered by WIPO.

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Part I

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Article 8

Indemnification of WIPO

(1) UPOV shall indemnify WIPO for any service rendered to UPOV by virtue of Article 7, above, and for any expenditure that it may incur on behalf of UPOV.

(2) The value of any service and of any expenditure by WIPO affecting both UPOV and one or several of the Unions administered by WIPO shall be apportioned in proportion to the relative interest of each of the Unions. The indemnification owed by UPOV shall correspond to the proportion of UPOV's interest in the said service or the said expenditure.

(3) The details of the evaluation of any service and expenditure shall be established by the Council of UPOV, the competent organs of WIPO and the Government of the Swiss Confederation.

Article 9

Independence of the Office of UPOV

Without prejudice to the application of Article 7, above, the Office of UPOV shall exercise its functions in complete independence of WIPO.

Article 10

Termination of Cooperation

(1) The cooperation defined in these Rules may be denounced by one or other of the parties by means of a written notification addressed to the Head of the Federal Political Department by the President of the Council of UPOV or by the Director General of WIPO. Such notification may but need not give reasons. It may not be made before January 1, 1972. It will take effect on December 31 of the year during which the notification is made if it is made during the first three months of that year, whereas it will take effect on December 31 of the year following the year during which the notification is made if it is made during the last nine months of the year.

(2) All cooperation between WIPO and UPOV, including its Office, shall automatically be terminated on the day when the person who is Director General of WIPO is no longer also Secretary-General of UPOV, whether because the post of Secretary-General has been filled by another person, or because the post of Secretary-General is no longer filled. It shall nevertheless be understood that, if the post of Director General is temporarily vacant, the person exercising the functions of Director General ad interim of WIPO shall automatically also act as Secretary-General ad interim of UPOV.

Article 11

Application, Modification and Abrogation of the Rules

The Federal Council, in its capacity of Supervisory Authority of the Unions concerned, shall supervise the application of these Rules. It may modify or abrogate the Rules in agreement with UPOV and WIPO.

∟Part II follows∟

Rules of Procedure of the Council*

I. When the International Union for the Protection of New Varieties of Plants is instituted, each member State shall inform the Secretary-General of the name of its representative. It shall also inform him of the name of an alternate who shall attend the meetings of the Council and have the right to speak and vote in the absence of the regular representative. They shall retain their powers until the State they represent replaces them.

The States which have signed the Paris Convention of December 2, 1961, but have not yet ratified it, shall, in accordance with Article 17 of the said Convention, inform the Secretary-General of their representatives in the same manner.

II. During meetings voting shall be by show of hands, unless a member should request that votes be taken by roll-call.

An abstention shall not be considered a vote.

III. The Council shall be convened at least two months in advance. The notice of a meeting shall include the agenda.

Each member State has the right to add items to the agenda provided that its notification reaches the Secretary-General at least one month before the date of the meeting.

The Council may decide to discuss items which are not included on the agenda, by a simple majority vote of the members present. Decisions made under these conditions shall not be finally accepted until a further meeting of the Council has re-examined them, unless these decisions are taken unanimously by the member States of the Union.

IV. In the event of urgency, the Council may be convened by its President without prior notice. Decisions taken shall not be formally accepted until they have been re-examined at a further meeting convened under the conditions laid down in the preceding paragraph, unless these decisions are taken unanimously by the member States of the Union.

V. The Council may set up temporary or permanent committees to examine technical or legal questions or any other question concerning the Union. These committees shall consist either of delegates or of experts appointed by the Council or by the various member States.

These committees shall be convened by the Secretary-General of the Union, who shall participate in their activities, arrange for a Secretariat and draw up a report of their activities.

VI. Committees set up in this manner shall have no powers to bind the Union. They may appoint a rapporteur, who shall draw up a report for the Council whenever this is considered necessary and at least once a year.

Note: By a decision of November 27, 1968, the Council appointed on a temporary basis a Consultative Working Committee consisting of the President and the Vice-President and the delegates from the remaining member States of the Union. Meetings of the Working Committee shall be convened by the President (see document CPU Min. 2, point 3, paragraph (d)).

* As adopted by the Council on November 27, 1968, in accordance with Article 20 of the Convention for the Protection of New Varieties of Plants, signed in Paris on December 2, 1961 (see documents CPU Min. 1 and UPOV/C/IV/10).

Financial Regulations*

Article 1

Adoption of the Financial Regulations of WIPO

The Financial Regulations of the International Union for the Protection of New Varieties of Plants (UPOV) (hereinafter referred to as "the present Regulations") shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Financial Regulations applied by the World Intellectual Property Organization (WIPO) and the Rules implementing the said Regulations (hereinafter referred to as "the Regulations" and "the Rules" respectively), including all subsequent amendments to such Regulations and such Rules.

Article 2

Preparation of the Budget

Articles 3.2, 3.3 and 3.4 of the Regulations are replaced by the following provisions:

- (a) By September 1 of each year the Secretary-General shall submit the budget for the following year to the Council of UPOV for approval.
- (b) The budget shall be approved by the Council before the beginning of the financial period.
- (c) The approval of the budget shall constitute authorization, for the Secretary-General, to incur expenses and make payments for the purposes stated in the budget, and up to the amounts so stated.

Article 3

Management Reports

Article 6 of the Regulations is replaced by the following provisions:

- (a) Within eight months after the end of each financial period, the Secretary-General shall submit to the Council of UPOV, and to the Government of the Swiss Confederation in its capacity of Supervisory Authority, a management report (rapport de gestion) dealing with its management and the activities and financial position of UPOV.
- (b) The Secretary-General shall transmit the management report to all the member States of the Union after it has been examined by the Council.

Article 4

Administrative Accounts (Final Accounts)

Article 7 of the Regulations is replaced by the following provisions:

- (a) Within six months after the end of each financial period, the Secretary-General shall submit the UPOV final accounts to the Government of the Swiss Confederation in its capacity of Supervisory Authority. Within eight months the Secretary-General shall submit the final accounts and the audit report of the Government of the Swiss Confederation to the Council of UPOV.

* As adopted by the Council on October 8 and 9, 1969, and amended on October 29, 1970, and November 10, 1972, in accordance with the procedure provided for in Article 20 of the Convention for the Protection of New Varieties of Plants, signed in Paris on December 2, 1961 (see documents CPU Doc. 20, UPOV/C/IV/17 and UPOV/C/VI/12).

- (b) The Council shall examine the accounts. It may propose adjustments to the share of UPOV in common expenses, if it finds that this share has not been correctly estimated and assessed by the Secretary-General. The Government of the Swiss Confederation, in its capacity of Supervisory Authority, shall establish the final allocation, after having consulted the Coordination Committee of WIPO on the proposals made by the Council of UPOV.
- (c) The Council shall approve the final accounts, after they have been audited in accordance with Article 24 of the Convention.

Article 5

Surpluses and Deficits

Article 8 of the Regulations is replaced by the following provisions:

- (a) If, after the approval of the final accounts, these accounts show a surplus of income, such surplus shall be paid into the Reserve Fund.
- (b) If, after the approval of the final accounts, these accounts show a deficit which cannot be covered by the Reserve Fund, the Council shall decide on the measures to be taken to remedy the situation.

Article 6

Contributions of Member States

Article 9.1 of the Regulations is replaced by the following provision:

Contributions fixed for a year shall be paid during the month of January of the respective year.

Article 7

Financial Control

1. The last sentence of paragraph (b) of Article 10.1 of the Regulations is replaced by the following provision:

In the exercise of his functions as Controller, such staff member shall be directly responsible to the Council of UPOV.

2. The last two sentences of Article 10.2 of the Regulations are replaced by the following provision:

In such case, the Controller shall attach a report to his authorization and shall immediately communicate the said report to the President of the Council of UPOV, who shall bring the matter to the attention of the Council.

3. Rule 1(b) is replaced by the provisions of paragraphs (1) and (2) of this Article.

Article 8

Working Capital Fund

1. UPOV shall have a special fund hereby named the Working Capital Fund, which shall be constituted by advances made by member States. Such advances shall be entered to the credit of the members which have made them.

2. The amount of the initial, or any subsequent, advance which each of the member States is called upon to make to the Working Capital Fund, and the procedure according to which such advances are to be made, shall be fixed by the Council on the basis of proposals submitted by the Secretary-General.

3. The purposes for which the Working Capital Fund shall be utilized shall be:

- (a) to meet budgeted expenditure pending the receipt of the contributions of member States;
- (b) to meet unavoidable unforeseen expenses arising from the execution of the approved program;
- (c) to meet such other expenses as may be determined by the Council.

4. Advances made from the Fund under paragraph (3)(a) shall be reimbursed as soon as, and to the extent that, income is available for that purpose. The amounts required for the reimbursement of advances provided for in paragraphs (3)(b) and (3)(c) shall be covered by additional budgets or by the budgets for the following year. Advances provided for in paragraph (3)(c) shall be subject to prior approval by the Council.

5. Interest received on the Working Capital Fund shall be credited to the general funds of UPOV.

Article 9

Incurring of Obligations

Rule 2(a) is supplemented by the following provision:

When the expenditure concerns UPOV alone, the commitment to incur an obligation shall be signed by the Secretary-General of UPOV or a staff member designated by him and the Controller.

Article 10

Disbursements

1. Paragraph (a)(iii) of Rule 3 is replaced by the following when the disbursement concerns UPOV alone: "(iii) by the Secretary-General of UPOV or a staff member designated by him when the disbursement concerns UPOV alone."

2. When the disbursement concerns UPOV alone, the reference to the Director at the end of the first sentence of paragraph (b) of Rule 3 shall be understood to be a reference to the Secretary-General of UPOV.

Article 11

Receiving of Moneys

Paragraph (c) of Rule 4 is replaced by the following provision:

Cheques made out by the Office of UPOV to its own order, as well as any other order addressed by the Office of UPOV to a bank, postal cheques office or to any other person, for the payment of cash, must be signed by two staff members, one of whom must be the Secretary-General of UPOV or a staff member designated by him, and the other the Controller or, if the Controller is not available, the Head of the Finance Services.

Article 12

Amendments of the Regulations

1. Subject to the provisions of the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, and the Regulations Concerning the Procedure for Technical and Administrative Cooperation between UPOV and the Unions Administered by BIRPI, approved by the Swiss Federal Council on October 21, 1969, the present Regulations--including any changes resulting from the amendment of the Regulations and Rules (see Article 1)--may be amended by the Council.

2. All amendments must be adopted by a majority of three-fourths of the States members of UPOV, after the opinion of the Swiss Confederation has been heard.

/Part IIIbis follows/

Part IIIbis

FINANCIAL REGULATIONS OF BIRPI*
 incorporating, in larger type,
 provisions relating to UPOV only

Contents

Regulation 0	Definitions
Regulation 1	Applicability
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Regulation 10	Internal Financial Administration of BIRPI

Adoption of the Financial Regulations of WIPO

The Financial Regulations of the International Union for the Protection of New Plant Varieties (UPOV) (hereinafter referred to as "the present Regulations") shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Financial Regulations applied by the World Intellectual Property Organization (WIPO) and the Rules implementing the said Regulations (hereinafter referred to as "the Regulations" and "the Rules" respectively), including all subsequent amendments to such Regulations and such Rules.

* Adopted--mutatis mutandis and subject to the applicable provisions of the WIPO Convention, the Stockholm Acts of the Paris and Berne Conventions, the Stockholm Acts of the Madrid, Nice /and Lisbon/ Agreements, the Locarno Agreement--by the General Assembly of WIPO and the Assemblies of the Paris, Berne and Nice Unions at their first ordinary sessions (1970), by the Assemblies of the Madrid and Locarno Unions at their first extraordinary sessions (1971) /and the Assembly of the Lisbon Union at its first ordinary session (1973)].

Regulation 0. Definitions

- 0.1 Supervisory Authority: the Government of the Swiss Confederation
- 0.2 Paris Union: International Union for the Protection of Industrial Property
- 0.3 Berne Union: International Union for the Protection of Literary and Artistic Works
- 0.4 Madrid Union: Union for the International Registration of Trademarks
- 0.5 The Hague Union: Union for the International Deposit of Industrial Designs
- 0.6 Nice Union: Union for the International Classification of Goods and Services to which Trademarks are Applied
- 0.7 Lisbon Union: Union for the Protection of Appellations of Origin and their International Registration
- 0.8 Trademark Service: Service maintained for the Madrid Union
- 0.9 Design Service: Service maintained for the Hague Union
- 0.10 Appellations Service: Service maintained for the Lisbon Union
- 0.11 Interunion Coordination Committee: Permanent Bureau of the Paris Union and Permanent Committee of the Berne Union, in joint session
- 0.12 Consultative Committee: Consultative Committee of the Paris Union

Regulation 1. Applicability

These Regulations shall govern the financial administration of BIRPI.

Regulation 2. Financial Period

The financial period shall be the calendar year.

Regulation 3. Preparation of Budget

3.1 For each financial period (calendar year) a draft budget shall be established by the Director. It will show the estimated income and expenditure separately for

the Paris Union (Industrial Property),
the Berne Union (Copyright),
the Nice Union (Classification),
the Madrid Union (Trademarks),
the Hague Union (Designs),
the Lisbon Union (Appellations of Origin), once it starts operating.

These estimates shall be broken down into chapters and headings, and shall be accompanied by explanations and supporting documents.

Estimates of the expenditure common to the various Unions (hereinafter referred to as "common expenses") shall be made and shall be accompanied by a provisional estimate of the share of each Union in the common expenses. Such shares shall be equitable and adapted to the circumstances in each case. They shall be based on the extent to which each Union is expected to benefit from the common expenses. All estimates of income and expenditure shall be expressed in Swiss francs and, for information, in United States dollars, and shall be accompanied by appropriate explanations.

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3.2 The Director shall submit to the Interunion Coordination Committee, for advice, by the first of August of each year, the draft budget for the next year; the Committee shall present its observations and recommendations within 60 days. On any question dealing with the Paris Union, due regard will be had for the triennial reports of the Consultative Committee. The same applies to the discussions of any representative body of the other Unions.

3.3 By the first of November preceding the financial period under consideration, the Director shall submit his draft budget to the Supervisory Authority.

3.4(a) The budget shall be adopted before the beginning of the financial period.

(b) Adoption of the budget shall constitute authorization for the Director to incur expenses and make payments for the purposes stated in the budget, and up to the amounts so stated.

Articles 3.2, 3.3 and 3.4 of the Regulations are replaced by the following provisions:

- (a) By September 1 of each year the Secretary General shall submit the budget for the following year to the Council of UPOV for approval.
- (b) The budget shall be approved by the Council before the beginning of the financial period.
- (c) The approval of the budget shall constitute authorization, for the Secretary General, to incur expenses and make payments for the purposes stated in the budget, and up to the amounts so stated.

Regulation 4. Transfers

4.1 The Director may make transfers from one heading of the budget to another for any given financial period up to a limit of 5% (five per cent) of the total funds credited for that period, when such transfers are necessary to ensure the proper functioning of the services.

4.2 Funds obligated but not expended by the end of the financial period shall remain available throughout the next financial period for the purpose of liquidating the obligations.

Regulation 5. Accounts

5.1 The Director shall establish draft accounting rules, which shall be submitted to the Interunion Coordination Committee for advice.

5.2 These rules shall include provisions fixing the conditions in which BIRPI shall establish such documents as shall be necessary for an accurate allocation of the common expenses in conformity with the principles laid down in Regulation 3.1.

5.3 The Director shall be responsible for the organization and proper working of the accounting service.

Regulation 6. Management Reports

6.1 Within six months after the end of each financial period, the Director shall submit to the Supervisory Authority and the Interunion Coordination Committee a management report (rapport de gestion), dealing with the activities of BIRPI and all questions of interest to it. This management report shall include the statements of account, the balance sheet, and a statement on the contributions of the member States.

6.2 The Interunion Coordination Committee shall present observations and make any recommendations it deems appropriate.

6.3 After approval by the Supervisory Authority, the management report shall be transmitted to all the member States of the various Unions.

Article 6 of the Regulations is replaced by the following provisions:

- (a) Within eight months after the end of each financial period, the Secretary General shall submit to the Council of UPOV, and to the Government of the Swiss Confederation in its capacity as Supervisory Authority, a management report (rapport de gestion) dealing with its management and the activities and financial position of UPOV.
- (b) The Secretary General shall transmit the management report to all the member States of the Union after it has been examined by the Council.

Regulation 7. Final Accounts

7.1 Within five months after the end of each financial period, the Director shall establish the final accounts and shall submit them to the Interunion Coordination Committee and the Supervisory Authority.

7.2(a) The Interunion Coordination Committee shall, with due regard for any observations, recommendations or suggestions made by the bodies referred to in Regulation 3.2, examine whether the share of each unit in the common expenses has been correctly estimated and assessed, and, if it finds that such is not the case, it shall propose the required adjustments.

(b) The final allocation shall be established and the final accounts approved by the Supervisory Authority.

Article 7 of the Regulations is replaced by the following provisions:

- (a) Within six months after the end of each financial period, the Secretary General shall submit the UPOV final accounts to the Government of the Swiss Confederation in its capacity as Supervisory Authority. Within eight months the Secretary General shall submit the final accounts and the audit report of the Government of the Swiss Confederation to the Council of UPOV.
- (b) The Council shall examine the accounts. It may propose adjustments to the share of UPOV in common expenses, if it finds that this share has not been correctly estimated and assessed by the Secretary General. The Government of the Swiss Confederation, in its capacity as Supervisory Authority, shall establish the final allocation, after having consulted the Coordination Committee of WIPO on the proposals made by the Council of UPOV.
- (c) The Council shall approve the final accounts, after they have been audited in accordance with Article 24 of the Convention.

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Regulation 8. Surpluses and Deficits

8.1 If, after the approval of the final accounts, the accounts of:

(i) any of the following Unions, namely:

- the Paris Union,
- the Berne Union,
- the Nice Union,

shows a surplus of income, such surplus shall be paid into the reserve funds, provided the advances made by the Swiss Confederation have been reimbursed. The Interunion Coordination Committee may make the suggestion that such payment should not be made if the amount of the reserves has become too large. In the latter case, the contributions of the member States of such Union shall be diminished accordingly in the following years;

(ii) any of the following services, namely:

- the Trademark Service (Madrid Agreement),
- the Design Service (The Hague Agreement),

shows a surplus of income, such surplus, after retention of the authorized amounts for reserve funds, shall, in conformity with the provisions of the applicable Agreement, be distributed among the member States of that Agreement;

(iii) the Appellations Service (once it comes into existence) shows any surplus of income, such surplus shall be paid into the reserve fund of that Service.

8.2 If, after the approval of the final accounts, the accounts of:

(i) any of the following Unions, namely:

- the Paris Union,
- the Berne Union,
- the Nice Union,

shows a deficit, not coverable out of reserve funds, the Interunion Coordination Committee shall suggest measures calculated to remedy the situation;

(ii) any of the following Services, namely:

- the Trademark Service (Madrid Agreement),
- the Design Service (The Hague Agreement),
- the Appellations Service (Lisbon Agreement),

shows a deficit, not coverable out of reserve funds, the member States or the representative body, if any, of that Agreement shall propose a plan to redress the financial situation either by an increase of the fees, or by the introduction of a system of contributions by States.

Article 8 of the Regulations is replaced by the following provisions:

- (a) If, after the approval of the final accounts, these accounts show a surplus of income, such surplus shall be paid into the Reserve Fund.
- (b) If, after the approval of the final accounts, these accounts show a deficit which cannot be covered by the Reserve Fund, the Council shall decide on the measures to be taken to remedy the situation.

Regulation 9. Contributions of Member States

9.1 The Director shall communicate, each year, to the member States of the Paris, Berne and Nice Unions the amount of their contributions for the last preceding year on the basis of the class to which they belong.

Article 9.1 of the Regulations is replaced by the following provision:

Contributions fixed for a year shall be paid during the month of January of the respective year.

9.2 Contributions shall be paid in Swiss francs.

9.3 New member States shall be required to pay their contributions from the year following that in which they became members.

9.4 Payments made by a member State shall be credited first to the Working Capital Funds and then to the contributions due in the order of the years for which they are due.

Regulation 10. Internal Financial Administration of BIRPI

10.1 The Director, with the advice of the Interunion Coordination Committee, shall establish the rules regulating the organization of the financial administration of BIRPI. These rules should ensure an effective and economic financial administration. They should, in particular:

(a) provide that all payments be made on the basis of supporting vouchers and other documents showing that the services or goods to be paid for have been received, and that payment has not previously been made;

(b) establish the conditions in which a staff member of higher rank will exercise the functions of Controller as described in Regulation 10.2. In the exercise of his functions as Controller, such staff member is directly responsible to the High Supervisory Authority.

The last sentence of paragraph (b) of Article 10.1 of the Regulations is replaced by the following provision:

In the exercise of his functions as Controller, such staff member shall be directly responsible to the Council of UPOV.

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(c) designate the officers who may receive monies, incur obligations, and make payments on behalf of BIRPI;

(d) maintain an internal financial control which shall provide for an effective permanent supervision and/or control of all financial transactions in order to ensure:

- (i) the regularity of the receipt, custody, and disposal of all funds and other financial resources of BIRPI,
- (ii) the conformity of all obligations and expenditure with the budget of BIRPI,
- (iii) the economic use of the resources of BIRPI,
- (iv) the keeping of regular inventories of equipment and other movables.

10.2 Except as permitted by these Regulations, no financial obligation shall be incurred without the authorization of the Controller. If the Director disagrees with the Controller, he may direct the latter to authorize the expenditure in question. In such case, the Controller shall attach, to his authorization, a report and shall immediately communicate the said report to the Supervisory Authority. The latter shall bring the matter to the attention of the Interunion Coordination Committee.

The last two sentences of Article 10.2 of the Regulations are replaced by the following provision:

In such case, the Controller shall attach a report to his authorization and shall immediately communicate the said report to the President of the Council of UPOV, who shall bring the matter to the attention of the Council.

10.3 The Director may, after full investigation, authorize the writing off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Supervisory Authority and the Interunion Coordination Committee together with the annual accounts.

10.4 Tenders for equipment, supplies and other requirements shall be invited within the limits and under the conditions specified in the Rules.

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WIPO

FINANCIAL RULES* ^{1/}

Chapter I

ORGANIZATION OF THE FINANCIAL SERVICES

Rule 1. Hierarchy

(a) The Administrative Division of the International Bureau shall be placed under the direction of a staff member belonging to the higher categories of staff, who will also carry out the duties of the Controller referred to in Regulation 10.2 (of the Financial Regulations of July 12, 1963). He shall be designated hereinafter as the "Controller" whenever his duties as Controller are involved, and as "Head of the Administrative Division" when his other duties are involved.

(b) In his capacity of Controller, the said officer is directly responsible to the Supervisory Authority. If he refuses to sign a paper proposing an expenditure by the Director General, the latter may issue an order, explaining the reasons therefor, that the necessary paper concerning the expenditure be signed. In such case, the Controller shall accompany his signature by a report, which he will immediately communicate to the Supervisory Authority. If the Controller is prevented from carrying out his tasks because of sickness, leave or other reasons, his tasks shall be performed by an officer, other than the Designated Officer (see Rule 2(a)), designated for that purpose by the Director General. Any such designation is immediately notified to the Supervisory Authority.

(c) In the absence of the Head of the Administrative Division, his tasks shall be performed by a member of that Division designated by him with the authorization of the Director General.

Article 1(b) of the Financial Rules is replaced by the provisions [which appear in this document after Articles 10.1(b) and 10.2 of the Financial Regulations].

Working Capital Fund

1. UPOV shall have a special fund hereby named the Working Capital Fund, which shall be constituted by advances made by member States. Such advances shall be entered to the credit of the members which have made them.

2. The amount of the initial, or any subsequent, advance which each of the member States is called upon to make to the Working Capital Fund, and the procedure according to which such advances are to be made shall be fixed by the Council on the basis of proposals submitted by the Secretary General.

* (entered into force November 30, 1973)

^{1/} Decided to be applied, *mutatis mutandis*, to WIPO and the Unions administered by it, by the General Assembly of WIPO and the Assemblies of the Paris, Berne and Nice Unions in their first ordinary sessions (1970), by the Assemblies of the Madrid and Locarno Unions in their first extraordinary sessions (1971) and by the Assembly of the Lisbon Union in its first ordinary session (1973).

3. The purposes for which the Working Capital Fund shall be utilized shall be:

- (a) to meet budgeted expenditure pending the receipt of the contributions of member States;
- (b) to meet unavoidable unforeseen expenses arising from the execution of the approved program;
- (c) to meet such other expenses as may be determined by the Council.

4. Advances made from the Fund under paragraph (3)(a) shall be reimbursed as soon as, and to the extent that, income is available for that purpose. The amounts required for the reimbursement of advances provided for in paragraphs (3)(b) and (3)(c) shall be covered by additional budgets or by the budget for the following year. Advances provided for in paragraph (3)(c) shall be subject to prior approval by the Council.

5. Interest received on the Working Capital Fund shall be credited to the general funds of UPOV.

Rule 2. Incurring of Obligations

(a) Subject to the provisions of paragraph (b), below, every commitment to incur an obligation requires the signatures of the Controller and a high official, other than the Head or any member of the Administrative Division, designated to this effect by the Director General (referred to in these Rules as "the Designated Officer"). The Designated Officer examines the question whether the proposed expenditure is in conformity with the general policy and with the program, whereas the Controller examines the question whether the proposed expenditure is in conformity with the budget and the provisions of the treaties and regulations, whether the necessary funds will in fact be available at the time when payment is due, and whether the expenditure is in conformity with the principles of economical use of the resources of the International Bureau. The Controller shall see to it that every commitment to incur an obligation be properly recorded.

Rule 2(a) is supplemented by the following provision:

When the expenditure concerns UPOV alone, the commitment to incur an obligation shall be signed by the Secretary General of UPOV or a staff member designated by him and the Controller.

(b) As to expenses which recur periodically because the service is performed or the goods are delivered over a certain period of time (for example, salaries of the staff, contracts for the printing of periodicals, insurance contracts, contracts concerning the upkeep of the building), it shall suffice that the commitment to incur expense be signed once, namely, before the contract concerning the service or goods is concluded.

(c) As to obligations not exceeding 5,000 francs, the powers of the Controller under paragraph (a), above, may be exercised by a staff member, other than the Designated Officer, designated to this effect by the Controller.

Rule 3. Disbursements

(a) Disbursements shall be effected only upon presentation of the supporting documents signed by the following staff members:

(i) by the staff member who has received the goods or the service, in order to certify that the goods have been delivered or the service has been rendered and that the quality and the quantity correspond to the order given;

(ii) by the Head of the Administrative Division, in order to certify that the expenditure is in conformity with the commitment to incur the expenditure, and that the amount is in conformity with the regulations in force (for example, as far as salaries, subsistence allowances, etc., are concerned, that they are in conformity with the Staff Regulations and Rules);

(iii) by the Designated Officer, in order to certify that the disbursement is in conformity with the general policy and the program.

Paragraph (a)(iii) of Rule 3 is replaced by the following when the disbursement concerns UPOV alone: "(iii) by the Secretary General of UPOV or a staff member designated by him when the disbursement concerns UPOV alone."

These signatures will constitute authorization to disburse.

(b) Any postal or bank cheque, as well as any other order for payment issuing from the International Bureau, shall be signed by the Head of the Administrative Division and by one of the staff members designated for that purpose by the Director General. They can append their signatures only on the basis of an authorization for disbursement (see paragraph (a)).

When the disbursement concerns UPOV alone, the reference to the Director at the end of the first sentence of paragraph (b) of Rule 3 shall be understood to be a reference to the Secretary General of UPOV.

(b-bis) As to disbursements, cheques and other orders of payment not exceeding 5,000 francs, the powers of the Head of the Administrative Division under paragraphs (a) and (b), above, may be exercised by a staff member, other than the Designated Officer, designated to this effect by the Head of the Administrative Division with the authorization of the Director General.

(c) All available cash belonging to the International Bureau shall be kept in a safe. The total of such cash may not exceed 20,000 francs outside the hours during which banks are open.

(d) The Head of the Finance Section or a member of that Section designated for the purpose by him is responsible for the cash of the International Bureau. The person responsible shall be in possession of one set of keys for the safe of the International Bureau. Two other sets of the same keys shall be placed in sealed envelopes signed by the Head of the Finance Section: one of the envelopes shall be in the possession of the Director General and the other in the possession of the Controller. If the person responsible for the cash is absent and access to the safe is required, the safe shall be opened in the presence of at least two persons; an inventory of its contents shall be drawn up, and the remaining cash shall be checked against the balance mentioned in the cash book.

(e) Payments in cash shall be effected only on the basis of an authorization for disbursement (see paragraph (a)).

(f) From time to time, and at irregular intervals, the Controller shall make a random check of the cash in hand. A report shall be drawn up and sent to the Supervisory Authority.

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Rule 4. Receiving of Moneys

(a) The Head of the Finance Section and any other person designated to this effect by him with the authorization of the Head of the Administrative Division are the only persons entitled to receive, on behalf of the International Bureau, cash payments, for which a receipt shall be established and signed by the Head of the said Section or the said other person.

(b) Cheques issued by persons other than the International Bureau and made out to the order of the International Bureau shall be crossed and registered as soon as received. Thereafter they shall be endorsed by the Head of the Administrative Division or a member of that Division designated for that purpose by him, to be credited to the post office or bank accounts of the International Bureau. No staff member is authorized to cash such cheques.

(c) Cheques made out by the International Bureau to its own order, as well as any other order addressed by the International Bureau to a bank, to the postal cheques office or to any other person, for the payment of cash, must be signed by two staff members, one of whom must be the Controller or a member of the Administrative Division designated to that effect by him, and the other must be one of the officials, other than the Head or any member of the Administrative Division, designated for that purpose by the Director General.

Paragraph (c) of Rule 4 is replaced by the following provision:

Cheques made out by the Office of UPOV to its own order, as well as any other order addressed by the Office of UPOV to a bank, postal cheques office or to any other person, for the payment of cash, must be signed by two staff members, one of whom must be the Secretary General of UPOV or a staff member designated by him, and the other the Controller or, if the Controller is not available, the Head of the Finance Services.

Rule 5. Tenders

(a) Purchases of supplies, equipment and furniture shall be made on the basis of three tenders, except if the value thereof does not exceed 10,000 francs.

(b) The most advantageous offer must be accepted if the guarantees as to quality and delivery dates are the same. Purchases shall be made in the largest possible number of member States.

Rule 6. Inventories

(a) Inventories of equipment and furniture shall be kept under the supervision of the Controller. Every item of equipment or furniture whose value or price exceeds 200 francs must appear in this inventory. The Controller shall ensure that the inventory is periodically checked.

(b) Inventories of paper stocks kept outside the headquarters building shall be under the responsibility of the Controller.

(c) Each staff member of the International Bureau shall be responsible for the economical utilization of the office supplies put at his disposal. The Controller shall supervise the economical use of the stocks of such supplies.

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Chapter II

BOOKKEEPING

Rule 7. Proper and Common Expenses

- (a) Any expenditure which is incurred in the exclusive interest of a given Union shall be considered as a "proper expense" of that Union.
- (b) Any expenditure which is incurred in the interest of two or more Unions shall be considered as a "common expense."
- (c) The books of the International Bureau shall be kept in such a way as to allow of a clear distinction between proper and common expenses.

Rule 8. Documents Concerning the
Allocation of Common Expenses

- (a) At the close of each financial period, the following documents shall be established as far as the past financial period is concerned:
- (i) A list of the staff members grouped according to the services to which they were assigned during the financial period; there shall be as many groups as there are allocation percentages for salaries; notes accompanying this list shall indicate any changes in the assignment of any staff members which may have occurred during the financial period. This list shall be signed by the Head of the Administrative Division and by the Director General.
- (ii) A statement of the number of copies which have been printed of each periodical published by the International Bureau; this statement shall also indicate the number of pages of each issue. It shall be signed by the Head of the Publications Section.
- (iii) A statement of the number of copies of any other publication printed by the International Bureau; this statement shall also indicate the number of pages of each publication. It shall be signed by the Head of the Publications Section.
- (iv) A statement, for each printed publication, of its total cost as far as the costs of paper, printing and binding are concerned. These statements shall be signed by the Controller.
- (v) A list of the official missions which have been effected for the International Bureau outside Switzerland. Missions shall be grouped according to the percentages of allocation applied; if the cost of a mission exceeds 20,000 francs, a special note shall indicate the reasons for the mission and, if the expenses are allocated among several Unions, the reasons for the percentage applied. This list shall be signed by the Director General.
- (vi) A list of conferences organized by the International Bureau; the conferences shall be grouped according to the percentages of allocation applied; if the cost of a conference exceeds 20,000 francs, a special note shall indicate the reasons for the conference and, if the expenses are allocated among several Unions, the reasons for the percentage applied. This list shall be signed by the Controller.
- (vii) A report, signed by the Controller, showing the proportion of the surfaces used by the various services.
- (viii) A list, signed by the Controller, of purchases of furniture or supplies exceeding 1,000 francs each and showing the service for which each purchase was intended.

(ix) A list of the fees paid to outside persons (with the exception of the fees paid for articles published in the periodicals of the International Bureau and for the translation of such articles), grouped according to the percentages of allocation applied; if the fees for any given work exceed 20,000 francs, a special note shall indicate the reasons for which an outside person has been engaged and, if the expenses are allocated among several Unions, the reasons for the percentage applied. This list shall be signed by the Controller.

(b) At least once every three years the following documents shall be established as far as the last financial period is concerned:

(i) a statement, signed by the Head of the Finance Section, showing the number of bookkeeping operations, broken down according to the various services which they concern;

(ii) a statement, signed by the Head of the Mail and Documents Section, concerning the mail and the documents, and indicating, for each service, the total number of items received and dispatched, as well as the number of pages of each mimeographed document.

Amendment of the Regulations

1. Subject to the provisions of the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, and the Regulations Concerning the Procedure for Technical and Administrative Cooperation Between UPOV and the Unions Administered by BIRPI, approved by the Swiss Federal Council on October 21, 1969, the present Regulations--including any changes resulting from the amendment of the Regulations and Rules (see Article 1)--may be amended by the Council.

2. All amendments must be adopted by a majority of three-fourths of the States members of UPOV, after the opinion of the Swiss Confederation has been heard.

[Part IV follows]

Administrative Regulations*Article 1Adoption of the Staff Regulations
and Staff Rules of WIPO

The Administrative Regulations of the International Union for the Protection of New Varieties of Plants shall consist, mutatis mutandis and subject to the provisions of the following articles, of the Staff Regulations (hereinafter referred to as "the Regulations") and the Staff Rules (hereinafter referred to as "the Rules") of the World Intellectual Property Organization (WIPO), as established on September 29, 1970, including all subsequent amendments to such Regulations and such Rules.

Article 2Classification Committee

When the Classification Committee (Article 2.1 of the Regulations) is called upon to express its views on the classification of a post provided for in the UPOV budget, the Vice Secretary-General of UPOV shall be made a member of that Committee.

Article 3Salary of the Secretary-General

The salary of the Secretary-General shall be ten per cent of the salary, including post adjustment, which he receives in his capacity of Director General of WIPO, in accordance with Articles 3.1 and 3.5 of the Regulations.

Article 4Appointment of Staff Members

Paragraphs (a) and (b) of Article 4.8 of the Regulations shall be replaced by the following provisions:

- (a) Any staff member who is to occupy a post provided for in the UPOV budget with a grade of P.4 or above shall be appointed by the Government of the Swiss Confederation, on the recommendation of the Council of UPOV, which shall first have sought the advice of:
 - (i) the Secretary-General when the post to be filled is that of the Vice Secretary-General;
 - (ii) the Secretary-General and the Vice Secretary-General when a post other than that of the Vice Secretary-General is to be filled.
- (b) Any staff member who is to occupy another post provided for in the UPOV budget shall be appointed by the Secretary-General on the recommendation of the Vice Secretary-General and, in the case of a post with grade P.3, after the opinion of the Council of UPOV has been heard.

Article 5Selection Committee

When the Selection Committee (Article 4.9 of the Regulations) is called upon to advise the Secretary-General concerning a vacancy in a post provided for in the UPOV budget, that Committee shall be presided over by the Vice Secretary-General.

* As adopted by the Council on October 8 and 9, 1969, and amended on October 29, 1970, and November 10, 1972, in accordance with the procedure provided for in Article 20 of the Convention for the Protection of New Varieties of Plants, signed in Paris on December 2, 1961 (see documents CPU Doc. 20, UPOV/C/IV/17
UPOV/C/IV/18)

Article 6

Letter of Appointment

The letter of appointment (Article 4.12(a) of the Regulations) of any staff member of the Office of UPOV whose appointment lies within the competence of the Government of the Swiss Confederation shall be signed by a duly authorized member of that Government.

Article 7

Joint Consultative Committee

When the Joint Consultative Committee (Rule 8.2.1) examines questions which directly or indirectly concern the staff of the Office of UPOV, a member of the staff of the said Office, designated by the Secretary-General, shall be made a member of that Committee.

Article 8

Dismissal

1. The provisions of paragraphs (a)(1) to (3) of Article 9.1 of the Regulations shall apply to staff members whose post is provided for in the UPOV budget, with the following reservations:

- (a) The dismissal of any staff member with a grade of P.4 or above shall be decided by the Government of the Swiss Confederation, on the recommendation of the Council of UPOV, which shall first have sought the advice of:
 - (i) the Secretary-General when the Vice Secretary-General is concerned;
 - (ii) the Secretary-General and the Vice Secretary-General when a staff member other than the Vice Secretary-General is concerned.
- (b) The dismissal of any staff member occupying a post with a grade lower than those referred to in paragraph (a) shall be decided by the Secretary-General on the recommendation of the Vice Secretary-General and, when it concerns a staff member occupying a post with grade P.3, after having sought the advice of the Council of UPOV.

2. The provisions of paragraphs (a)(4) and (5), and those of paragraph (d) of Article 9.1 of the Regulations shall not apply.

Article 9

Amendment of the Administrative Regulations

1. Subject to the provisions of the Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, the Regulations Concerning the Procedure for Technical and Administrative Cooperation Between UPOV and the Unions Administered by BIRPI, approved by the Swiss Federal Council on October 21, 1969, and the rights of staff members, as established by Article 12.1 of the Regulations and Rule 12.2.1, these Administrative Regulations--including any changes resulting from the amendment of the Regulations and Rules (see Article 1)--may be amended by the Council of UPOV.

2. All amendments shall be adopted by a majority of three-fourths of the States members of UPOV, after the opinion of the Government of the Swiss Confederation has been heard.