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COUNCIL OF EUROPE
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Draft Agreement between the Combined International Bureaux for the protection of industrial property and of literary and artistic works and the Council of Europe

Request for an opinion
Committee of Ministers

Introductory Note by the Secretariat-General

On the occasion of the visit paid by the Secretary-General in March 1956 to the Combined International Bureaux in Berne, the Director of the latter pointed out the importance attached by his Organisation to its collaboration with the Council of Europe and expressed the wish that the framework of this collaboration should be extended.

The Director of the Combined Bureaux expressed the particular wish that the Combined Bureaux, like other international organisations, should be given the opportunity of submitting annual reports to the Consultative Assembly, in which they could give a general account of their activities and draw particular attention to conventions signed but not ratified by certain Member States of the Council, as well as draft regional agreements prepared by the Organisation.

Examination of such reports by the Consultative Assembly would ensure wider publicity for the work of the Paris and Berne Unions, and might facilitate the ratification of conventions by European States or their adhesion to new projects.

The Agreement concluded between the Council of Europe and the Combined Bureaux by exchange of letters dated 22nd and 23rd April 1953, makes no provision for the submission of such reports by the Combined Bureaux. It is limited, in principle, to the establishment of links between the Secretariat-General of the two Organisations.

In June 1956, the Committee of Ministers authorised the Secretary-General to get in touch with the Director of the Combined International Bureaux with a view to negotiating a more extensive agreement than the one already concluded with that Organisation.

As a result of the negotiations between the Secretary-General and the Director of the Combined International Bureaux, the attached draft agreement was drawn up and approved by the Committee of Ministers in November 1956. As the new draft differs from the former agreement chiefly by making provision to give the Combined Bureaux the opportunity of transmitting reports to the Consultative Assembly, the Committee of Ministers has decided to submit the draft to the Assembly for its opinion.

The new text, moreover, is modelled on the agreement with F. A. 0., which was submitted to the Assembly for its opinion in Document 337 and approved in Opinion No. 17. The Explanatory Memorandum appearing on pages 2 to 4 of Document 337 is applicable mutatis mutandis to the agreement with the Berne Bureaux.

Appendix

Draft Agreement between the Combined International Bureaux for the protection of industrial property and of literary and artistic works and the Council of Europe

THE COMBINED INTERNATIONAL BUREAUX FOR THE PROTECTION OF INDUSTRIAL PROPERTY AND OF LITERARY AND ARTISTIC WORKS (hereinafter referred to as « the Combined International Bureaux ") and

THE COUNCIL OF EUROPE (hereinafter referred to as " the Council "),

Considering that, in the interests of the Member States of the international unions of world-wide scope set up under the Paris Convention of 20th March 1883, last revised at London on 2nd June 1934, for the protection of industrial property, and the Berne Convention of 9th September 1886, last revised at Brussels on 26th June 1948, for the protection of literary and artistic works, the Combined International Bureaux constitute the competent international authority in the sphere of industrial property and copyright, taking into account the provisions of those Conventions;

Considering that the Council is a regional organisation whose aim is to achieve a greater unity among its Members for the purpose of safeguarding and fulfilling the ideals and principles which are their common heritage and facilitating their economic and social progress; that this aim is to be pursued through the organs of the Council by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms;

Considering that the Council is thus qualified to deal with any problem in those fields, the solution of which might promote greater unity among its Members and that it is therefore interested in studying, at European level, matters within the competence of the Combined International Bureaux, if such studies would result in intergovernmental action of common interest to both organisations ;

Recognising their community of interests and being desirous of co-ordinating their efforts with a view to pursuing their common aims along agreed lines within the competence conferred upon the Combined International Bureaux under the above-mentioned Paris and Berne Conventions and the Statute of the Council of Europe; which implies that they shall keep each other informed of their programmes and activities and avoid unnecessary duplication,

Have agreed as follows :

ARTICLE 1 - Exchange of information and documents

1. Subject to such arrangements as may be necessary in certain cases for the safeguarding of confidential material, the Combined International Bureaux and the Council shall ensure prompt and full exchange of all information and documents concerning matters of common interest.

2. The Combined International Bureaux and the Council will concert their efforts to obtain the best use of statistical and legal information and to ensure the most effective utilisation of their resources in the assembling, analysis, publication and diffusion of such information, with a view to reducing the burden on the Governments and other organisations from which such information is collected.

ARTICLE 2 - Mutual consultation

3. The Combined International Bureaux and the Council will consult each other at all stages of the preparatory work and execution of projects of common interest, with a view to securing effective co-ordination between them; each organisation shall consider any observations on such projects which may be conveyed to it by the other.

4. Where the Council is interested in promoting at European level projects within the competence of the Combined International Bureaux, it shall first ascertain what action the latter have taken or are contemplating in the matter. The Council may subsequently request the Combined International Bureaux to extend the activities in question, in which case the Council will follow the procedure set out in Article 5 below. If the Combined International Bureaux are unable or unwilling to comply with such a request, it is understood that the Council may itself deal with the matter. In either event all other provisions of this Agreement shall still apply.

5. The provisions of Paragraph 2 above shall not, however, in any way affect the work already being done within the Council of Europe in connection with patents of invention.

ARTICLE 3 - Relations with the Council of Europe

The Combined International Bureaux may transmit to the Council for examination, particularly by the Consultative Assembly, reports on those activities of the Bureaux which are of specifically European interest. Preliminary consultations shall be held to determine the date and methods of presentation of such reports, taking into account the work and calendar of the institutions of the Council in; general and of the Consultative Assembly in particular.

ARTICLE 4 - Reciprocal representation

6. The Combined International Bureaux will invite the Council to be represented at conferences and meetings held under their auspices to consider matters in which the Council has an interest. The representatives of the Council may participate without vote in the deliberations where they concern matters in which the Council is interested.

7. Whenever questions of common interest are under discussion representatives of the Combined International Bureaux shall be invited to attend meetings of committees of governmental experts convened by the Committee of Ministers of the Council and may also be invited to attend other meetings and conferences held by or under the auspices of the Council.

RTICLE 5 - Proposal of items for inclusion in the Agenda

8. Subject to such preliminary consultation as may be necessary, the Committee of Ministers of the Council may, on its own initiative or at the request of the Consultative Assembly, propose items for inclusion in the Agenda of the various conferences and meetings organised under the auspices of the Combined International Bureaux.

9. Subject to such preliminary consultation as may be necessary, the Director of the Combined International Bureaux may propose to the Committee of Ministers items for discussion by the Committee or by the Consultative Assembly.

10. Each organisation will have recourse to the provisions of this Article for the purpose of referring to the other organisation matters which it considers can be more appropriately dealt with by the latter.

ARTICLE 6 - Technical co-operation

Insofar as their resources permit and within their terms of reference and programmes, the Combined International Bureaux and the Council will co-operate in studying technical questions applying to Europe and will assist each other in the implementation of the results of such studies. In the event of such co-operation entailing extraordinary expenditure, consultation will take place with a view to determining the most equitable manner of meeting such expenditure.

ARTICLE 7 - Administrative arrangements

The Director of the Combined International Bureaux and the Secretary-General of the Council shall make appropriate administrative arrangements to ensure effective cooperation and liaison between the Secretariats of the two organisations.

ARTICLE 8 - Entry into force and duration

11. This Agreement shall enter into force as soon as it has been approved by both the Director of the Combined International Bureaux and the Committee of Ministers of the Council and shall thereupon supersede the previous Agreement concluded by exchange of letters in April 1953.

12. Either Party may denounce the Agreement by giving six months' notice to the other Party.