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Paris Convention for the Protection of Industrial Property — A View of the Proposed Revisions

by William E. Schuyler*

Celebrating its centennial in 1984, the Paris Convention for the Protection of Industrial Property¹ is a worldwide treaty to which ninety-two nations adhere.²

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¹ Paris Convention of 1883, 21 U.S.T. 1583 and 24 U.S.T. 2140, T.I.A.S. No. 6923 and 7727, 192 L.N.T.S. 4459 [hereinafter cited as Paris Convention].

² W. WHITE & B. RAVENSCROFT, PATENTS THROUGHOUT THE WORLD 571 [hereinafter cited as PATENTS]. The ninety-two member nations are:

Members

- *Algeria
- *Argentina (1)
- *Australia
 - Norfolk
 - °Nauru
- *Austria
- *Bahamas (1)
- *Belgium
- *Benin
- *Brazil (1)
- *Bulgaria
- *Burundi
- *Cameroun
- *Canada (1)
- *Central African Republic
- *Chad
- *Congo
- *Cuba
- †Cyprus
- *Czechoslovakia
- *Denmark and Faroe Islands
- °Dominican Republic
- *Egypt
- *Finland
- *France, including Overseas Depts. and Territories
- *Gabon
- *German Fed. Rep.
- *German Dem. Rep.
- *Ghana
- *Greece
- *Guinea

From

- March 1, 1966
- February 10, 1967
- August 5, 1907
- July 29, 1936
- July 29, 1936
- January 1, 1909
- October 20, 1967
- July 7, 1884
- January 10, 1967
- July 7, 1884
- June 13, 1921
- September 3, 1977
- May 10, 1964
- September 1, 1923
- November 19, 1963
- November 19, 1963
- September 2, 1963
- November 17, 1904
- January 17, 1966
- October 5, 1919
- October 1, 1894
- July 11, 1890
- July 1, 1951
- September 20, 1921
- July 7, 1884
- February 29, 1964
- May 1, 1903
- May 1, 1903
- September 28, 1976
- October 2, 1924
- February 5, 1982

The protection of industrial property as defined by the Paris Convention primarily refers to patents, trademarks and the repression of un-

†Haiti	July 1, 1958
*Holy See	September 29, 1960
*Hungary	January 1, 1909
Iceland	May 5, 1962
*Indonesia (1)	October 1, 1888
†Iran	December 16, 1959
*Iraq	January 24, 1976
*Ireland	December 4, 1925
*Israel	September 12, 1933
*Italy	July 7, 1884
*Ivory Coast	October 23, 1963
*Japan	July 15, 1899
*Jordan	July 17, 1972
*Kenya	June 14, 1965
*Korea (North)	June 10, 1980
*Korea (South)	May 4, 1980
Lebanon	September 1, 1924
*Libya	September 28, 1976
*Liechtenstein	July 14, 1933
*Luxembourg	June 30, 1922
*Madagascar	December 21, 1963
*Malawi	July 6, 1964
*Malta (1)	October 20, 1967
*Mauritania	April 11, 1965
*Mauritius	September 24, 1976
*Mexico	September 7, 1903
*Monaco	April 29, 1956
*Morocco	July 30, 1917
*Netherlands	July 7, 1884
* Netherlands Antilles	July 1, 1890
New Zealand	September 7, 1891
*Niger	July 5, 1964
†Nigeria	September 2, 1963
*Norway	July 1, 1885
*Philippines (1)	September 27, 1965
*Poland	November 10, 1919
*Portugal with Azores and Madeira	July 7, 1884
*Rumania	October 6, 1920
San Marino	March 4, 1960
*Senegal	December 21, 1963
*South Africa	December 1, 1947
*Spain	July 7, 1884
*Sri Lanka (1)	December 29, 1952
*Surinam	July 1, 1890
*Sweden	July 1, 1885
*Switzerland	July 7, 1884
Syria	September 1, 1924
†Tanzania (Tanganyika only)	January 1, 1938
*Togo	September 10, 1967
†Trinidad and Tobago	May 14, 1908
*Tunisia	July 7, 1884
*Turkey (1)	October 10, 1925
*Uganda	June 14, 1965
*Union of Soviet Socialist Republics (Russia)	July 1, 1965
*United Kingdom	July 7, 1884
* Hong Kong	November 16, 1977

fair competition.³ While repression of unfair competition does not come within the traditional definition of property, it is, nevertheless, an important feature of the Paris Convention, inserted in the treaty for the first time in 1925.⁴ The treaty has been revised six times since its inception in 1883.⁵

In recent years the term "intellectual property" has gained increased usage over the term "industrial property." The former, a more comprehensive term, contemplates copyrights as well as patents, trademarks and unfair competition. Copyright protection is particularly significant in the licensing of computer software.⁶ While copyright protection of software is not protected worldwide, some countries are at least contemplating amendments to their copyright laws specifically to provide for its protection. This is a dynamic area in the law, subject to constant change and gaining in importance.

The Paris Convention for the Protection of Industrial Property, i.e., patents, trademarks and unfair competition, is one of the oldest multinational treaties that is still respected. It has survived two world wars, with continued recognition by both sides of the conflict. In the beginning, the Paris Convention was an arrangement among the major industrial countries of Europe, joined by the United States, to facilitate, encourage and upgrade the protection of industrial property. The membership has changed significantly since its inception. More than one half of the present member states are identified as developing countries in United Nations terminology.⁷ While China is not yet a member of the Paris Union,

United States of America, including Guam, Puerto Rico,

* American Samoa, and Virgin Islands

May 30, 1887

*Upper Volta

November 19, 1963

*Uruguay

March 18, 1967

*Vietnam

March 8, 1949

*Yugoslavia

February 26, 1921

*Zaire

January 31, 1975

*Zambia (1)

April 6, 1965

*Zimbabwe

April 18, 1980

°Countries bound by The Hague Amendment.

†Countries bound by the Lisbon Text.

*Countries bound by the Act of Stockholm.

Countries without a symbol bound by the Acts of London.

(1)Acceptance of the Stockholm Act excluding Articles 1 to 12.

³ Paris Convention, *supra* note 1, at art. 2 § (2), which reads, "The protection of industrial property has as its objects patents, utility models, industrial designs, trade marks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition." July 14, 1967.

⁴ The Hague Revision, November 6, 1925. PATENTS, *supra* note 2, at 525.

⁵ Revised at Brussels, Belgium, December 14, 1900; at Washington, D.C., June 2, 1911; at The Hague, Netherlands, November 6, 1925; at London, England, June 2, 1934; at Lisbon, Portugal, October 31, 1958; and at Stockholm, Sweden, July 14, 1967. PATENTS, *supra* note 2, at 525.

⁶ Model Provisions on the Protection of Computer Software, World Intellectual Property Organization (WIPO), 1978. WIPO was adopted by the Stockholm Conference, 1967. Records of the Intellectual Property Conference of Stockholm, 2 vols., 1967.

⁷ See *supra* note 2. The United Nations classification of countries and territories according

it is contemplating the installation of a patent system which will qualify it for membership. When China does become a member, the nation with the largest population in the world will be considered a developing country for purposes of this treaty. Today industrial countries who started the Paris Convention constitute only about a third of the member states. Other members are industrial countries from non-European parts of the world such as Japan and Australia. The remaining members are the Socialist bloc countries. This change in the membership of the Paris Union has presented some interesting and difficult negotiating situations.

I. Collateral Treaties

Member nations of the Paris Union have generated additional, specific treaties. One is the Patent Cooperation Treaty, negotiated in 1970⁸ and now in operation. It is a treaty within the framework of the Paris Union, designed to facilitate the filing of patent applications in countries around the world; a procedure that had not previously been coordinated. A second collateral treaty is the Trademark Registration Treaty,⁹ simplifying procedures for multinational registration of trademarks and service marks. The United States has not yet adhered to the Trademark Registration Treaty.

The European Patent Office, organized under a treaty¹⁰ by a number of European countries,¹¹ is an indirect off-shoot of the Paris Convention. While European countries encountered serious difficulties reaching agreement on the provisions of the Treaty for the European Patent Office, during the negotiations of the Patent Cooperation Treaty

to main economic areas has been adopted for purposes of statistical convenience only, and follows that employed by the Statistical Office of the United Nations. Thus, the statistical coverage of developing countries excludes countries in Southern Europe and the socialist countries of Eastern Europe and Asia.

Countries and territories are classified according to four main economic areas as follows:

Developed market economy countries: United States, Canada, EEC (Belgium, Denmark, France, Germany, Federal Republic of Greece, Ireland, Italy, Luxembourg, Netherlands, United Kingdom), EFTA (Austria, Faeroe Islands, Finland, Iceland, Norway, Portugal, Sweden, Switzerland), Spain, Yugoslavia, Israel, Japan, Australia, New Zealand, South Africa.

Socialist countries of Eastern Europe: Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, USSR.

Socialist countries of Asia: China, Mongolia, Democratic People's Republic of Korea, Viet Nam.

Developing countries and territories: all other countries and territories in Africa, Asia, America, and Oceania not specified above.

⁸ Patent Cooperation Treaty, June 19, 1970, 28 U.S.T. 7645-7906, T.I.A.S. No. 8733, negotiated at the Washington Diplomatic Conference, May & June, 1970.

⁹ Trademark Registration Treaty, June 12, 1973, (negotiated at the Vienna Diplomatic Conference, June 12, 1973), reprinted in Offner's International Trademark Service 7136-7362 (1981).

¹⁰ Convention on the Grant of European Patents (EPC), Munich, Oct. 5, 1973. U.N. No. 16207. EPC, Art. 6. See Cornish, *The European Patent Conventions*, 1976 J. BUS. L. 112.

¹¹ The sixteen member nations are Austria, Belgium, Denmark, France, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Sweden, Switzerland, United Kingdom, and West Germany. Cornish, *supra* note 10, at 112.

by all members of the Paris Union, solutions for the European problem were found. Today the Patent Cooperation Treaty is not utilized as frequently as the European Patent Office, but there would not be a European Patent Office — or at least it would not have come about as soon — if there had not been a diplomatic conference to negotiate the Patent Cooperation Treaty.

II. Rule of Unanimity

All six revisions of the Paris Convention were adopted by a consensus of the member states participating in a diplomatic conference. In international negotiations consensus means “adopted without dissent.” In the past, a revision or a proposal has been turned down because only one member state objected. Negotiations for present revisions, which have entered their third year, are being dominated by the developing countries which, since the last revision, are in the majority. Developing countries requested the present Revision Conference in order to obtain concessions which they believe will facilitate their technological development.

Five years ago, preparatory meetings were held in Geneva where these revisions were first being discussed. The first session of the Diplomatic Conference¹² was convened in Geneva in 1980, and the delegates from all the member states spent a month discussing the rules of procedure. There was a stalemate on the voting rule. Developing countries insisted upon a qualified majority (two-thirds or three-quarters) for adoption of revisions. Industrial countries wanted to continue prior rules of adoption by consensus. At the conclusion of that conference, over objection by the United States, the President of the Conference announced that the rule had been changed. No longer would one dissent be enough to bar revision. The developing countries, with the agreement of the Common Market countries, decided that proposals would be adopted unless there were more than twelve dissenting votes. This gave the Common Market a potential veto, but it took away the veto of the United States or Japan, or any other individual country. Only the United States objected to the announced change in the voting rule. Repeatedly, the United States has made it clear that it would not recognize the legality of any revision of the Paris Convention adopted by less than a consensus, including any change in the voting rule.

In October 1981, the second session of the Diplomatic Conference convened in Nairobi. At the outset the United States again declared that it did not recognize the revised voting rule, but that it would participate in the conference and do everything possible to reach solutions that could be adopted by consensus. While the eventual outcome is still unsure, there has been progress toward a reinstatement of the consensus rule.

¹² WORLD INTELLECTUAL PROPERTY ORGANIZATION, DIPLOMATIC CONFERENCE ON THE REVISION OF THE PARIS CONVENTION, Geneva, 4 Feb. to 4 March 1980.

III. Principle of National Treatment

Many multinational treaties are based upon reciprocal arrangements by which parties agree to do the same thing for one another or to retaliate in the same way. These arrangements can have adverse results. A hundred years ago, representatives of the governments negotiating the Paris Convention recognized the difficulties inherent in reciprocity when dealing with an intangible like a patent or a trademark registration. To the credit of those negotiators, a keystone of the Paris Convention is a principle called the "national treatment." Under that principle, with respect to industrial property, every member of the Paris Union agrees to treat the nationals of every other member state the same as it treats its own nationals. Each country has patent law that must be applied equally and uniformly to its citizens and to nationals of other member states.¹³ That principle has never been compromised. Each state decides for itself how strong or weak a patent system it desires. The same principle applies to trademark registration systems and control of unfair competition: member countries apply their laws uniformly to all members of the Paris Union.

The Paris Union is not concerned with the enforcement of a patent or trademark registration. Patent or trademark registration is limited to the territory of the state that grants it, and the Paris Union does not provide any extraterritorial mechanism to implement enforcement.

IV. Rights of Priority

The Paris Convention provides minimum standards that all of the member states agree to observe. One of the most useful provisions concerns what are known as priorities for the filing date of applications for patent and trademark registrations.¹⁴ If an applicant files a patent application in any country that is a member of the Paris Union, he or she has one year within which to file a corresponding application in other countries in order to receive the benefit of the initial filing date in the other countries. Because rights to patent property and inventions ordinarily go to the first applicant who files for the patent, this provision for retroactivity is important. An applicant has one year in which to evaluate the subject matter of his patent, and to comply with the procedural regulations of different countries. In the case of trademarks, a similar provision of the Paris Convention provides six months in which to file applications for registration in other countries.

V. Provisions Concerning Patents

Another general principle which member states of the Paris Union agree to apply is that a patent in any country is independent of its coun-

¹³ Paris Convention, *supra* note 1, at art. 3.

¹⁴ *Id.* at art. 4.

terpart in any other country.¹⁵ If a patent exists in each of ten countries on the same invention, and if the patent is held invalid in one of those ten, the other nine patents survive to whatever extent the national law says they should survive. This provision was inserted¹⁶ in order to negate laws in some countries which had provided that invalidation of the original patent invalidated corresponding patents in other countries.

There are other minor provisions. For example, the validity of a patent cannot depend upon compliance with government regulations concerning the sale of the patented product.¹⁷ To eliminate undesirable laws in some countries, importation of a patented product cannot entail forfeiture of the patent.¹⁸ Matters of forfeiture, importation and obligations of the patentee are the subject of many demands by developing countries.

Still another provision of the Paris Convention concerns protection of a product that is manufactured according to a patented process and then imported into a country where a patent on that process exists.¹⁹ While the provision does not mandate absolute protection, it does require member countries to apply the same law to imported products as the country applies to products manufactured domestically.

A. Requirements for Working Patented Invention

Unlike the United States, most countries of the world place an obligation on the patent owner to "work" the invention. "Work" is a term of art that means "manufacture." If a patent owner obtains a patent on a product in Argentina, for example, Argentina may require that the owner manufacture the product there, or risk jeopardizing his Argentine patent. The Paris Convention recognizes the right of every country to require an owner to work the invention—that is, to manufacture the invention in the country where the owner has the patent.

"Working" is not an American concept and is not in United States statutes. Anybody in the world can obtain a patent in the United States and do nothing to work the invention. In the United States, as long as the patent owner pays the maintenance fees, the patent will continue in force for the full seventeen years.²⁰

B. Sanctions for Nonworking

While the Paris Convention recognizes the right of any member state to require working of a patented invention, it imposes some limitations on the sanctions which may be imposed for failure to work. First,

¹⁵ *Id.* art. 4 bis.

¹⁶ *Id.* and *supra* note 5, Brussels Revision, 1900.

¹⁷ Paris Convention, *supra* note 1, at art. 4 quater.

¹⁸ *Id.* art. 5A (1).

¹⁹ *Id.* art. 5 quater.

²⁰ 35 U.S.C.A. § 154 (Supp. 1981).

the patent may be forfeited.²¹ Second, it may be subject to a compulsory license.²² In the case of a compulsory license, the Paris Convention provides that no application for a compulsory license may be made until four years after a patent application is filed, or three years after a patent is granted. It further provides that the patent may not be forfeited unless a compulsory license has been in effect for two years and the invention is still not satisfactorily manufactured. In all of these cases the Paris Union requires a member state to provide that nonworking may be excused.

C. Proposal for Compulsory Exclusive License

In the diplomatic conference in Nairobi,²³ the developing countries, over the sole objection of the United States, demanded and obtained an agreement on two very important issues. The first issue concerns the compulsory license which, under certain conditions, could be made exclusive, thereby excluding even the patent owner. If a patent is not being "worked" in Argentina, for example, the exclusive compulsory license sought by the developing countries would authorize the Argentine government to grant an exclusive license to someone other than the patent owner. Moreover, once a patent is granted, and someone other than the patent owner has an exclusive license to manufacture or sell the product, the owner cannot even import the product into the country where the patent is now being worked. The exclusive compulsory license keeps a patent owner from using his or her own invention in the country in which it is patented. Thus, if someone besides the original patent owner has an exclusive license on the manufacture of an alternator which is used in General Motors automobiles, the Argentine Government may not allow importation of the automobile unless the alternator is first taken off. It is easy to see that implementation of the exclusive compulsory license provisions will have a tremendous adverse impact on international trade.

D. Proposal for Automatic Forfeiture

The second issue concerns a provision called "automatic forfeiture." If an owner is not manufacturing a patented invention in Argentina, an official in the Argentine Government could decide, solely on the basis of subjective judgment, that the patent will be forfeited. This can be done anytime after five years from the grant of the patent.

VI. Opposition by United States to Exclusive License and Forfeiture Proposals

In Nairobi, the exclusive license and forfeiture provisions were

²¹ Paris Convention, *supra* note 1, at art. 5A (3).

²² *Id.* art. 5A (2).

²³ The author served as Ambassador to the Diplomatic Conference for the Revision of the Paris Convention at Nairobi, 1981. Eds. note.

agreed to by everyone except the United States. At the conclusion of the Nairobi Conference in 1981, the United States announced it would not be a party to any treaty that included either of these two provisions. Although little was said about the United States' announcement at the time, it was subsequently published in the minutes of the Conference. United States industry is concerned about these proposals, and through its counterpart in other developed countries it has generated resistance and attempted to change the positions taken by other governments. To some extent this activity has been carried on in developing countries as well.

As a result, at a meeting in Geneva in June of 1982, the developing countries reached an informal agreement to leave these controversial items off the agenda at the Geneva conference scheduled for October 1982, provided the United States would engage in informal discussions with representatives of the developing countries to attempt to reach some agreement. At the third session of the Diplomatic Conference in Geneva in October and November 1982, it became evident that the developing countries were not interested in a treaty which did not include the United States as a party. Although final agreements were not reached in Geneva, it is probable that an agreement²⁴ — based upon a proposal made by the United States in Nairobi in 1981²⁵ but rejected at that time — will be reached on these two critical items. This is illustrative of the importance of the United States in the transfer of technology on a worldwide basis.

A. Potential Adverse Impact on Transfer of Technology

These two issues—the compulsory exclusive license and the automatic forfeiture provision—are important in licensing because a license may provide for the sale of a patented product in a developing country to be sold by the patent owner's licensee. If there is no manufacturer in the country because, for example, the market will not support a manufacturing plant, the patent could be forfeited at the end of five years, rendering the license a nullity. Nothing prevents any government from limiting patents to five-year terms, but the national treatment principle would require a five-year term for nationals of the country as well as aliens. Under an automatic forfeiture provision, on the other hand, a developing country could have an effective five-year term for aliens and a longer term for its own nationals.

These difficulties have surfaced because multinational corporations are using patents to monopolize the importation of products into developing countries, and to sustain the price of patented products. Developing countries may want to encourage competition with patented products, or may simply want some leverage to force down the price of

²⁴ Diplomatic Conference, Geneva, 1982. Proposal by Chairman of Main Committee I.

²⁵ Official Document of Diplomatic Conference, Nairobi, 1981. PR/DC/32.

the imported patented product. Under the Nairobi agreements, a developing country could not only threaten an owner with forfeiture of his or her patent, but could go a step further and grant someone else an exclusive license under that owner's patent, keeping the owner out of the market entirely. Patent owners faced with these threats will probably reduce the price of an imported product quickly. Such provisions are counterproductive because, faced with the potential of an adversely-held exclusive license, or a premature forfeiture, industry in the United States will not apply for a patent in any country implementing the revised treaty. As a result there would be no possibility of working or manufacturing in that country. Hopefully, the next session of the Diplomatic Conference, now scheduled for late 1983 or early 1984, will result in agreements acceptable to the United States and more beneficial to developing countries.

VII. Trademarks

Several articles of the Paris Convention concern trademarks.²⁶ From the beginning, in 1883, the Convention has provided that a trademark duly registered in the country of origin (i.e., the country in which the applicant is domiciled or has a commercial or industrial establishment) shall be protected by any member of the Union and may be denied registration only if the mark would infringe rights of third parties, is devoid of distinctive character, or is contrary to morality or public order.²⁷ The original treaty also provided that each member state should apply its own law in the determination of the registration of a mark. As in the case of patents, a trademark registration in any country is independent of registration of the mark in other countries.²⁸

Provisions of the treaty require that specific protection be accorded by all countries to certain types of marks. For example, each member country must refuse registration and/or prohibit use of a trademark which is an imitation of a mark well known in that country.²⁹ Memorial bearings, flags, and State emblems of member countries must be protected in every member country against registration or use.³⁰

Although the provisions have been modified several times, the original treaty provided for seizure on importation of any product bearing a trademark or trade name entitled to protection in the country of importation.³¹ This protection against infringement by marks on imported goods is a potent weapon in the hands of a trademark owner, not only

²⁶ Provision for according priority to applications for registration of trademarks has already been mentioned. Paris Convention, *supra* note 1, at art. 1.

²⁷ *Id.* art. 6 quinquies.

²⁸ *Id.* art. 6 (3).

²⁹ *Id.* art. 6 bis.

³⁰ *Id.* art. 6 ter. This article was amended in Geneva in 1982 to include the official names of the countries of the Union. Diplomatic Conference, Geneva, 1982. PR/DC/INF/38.

³¹ Paris Convention, *supra* note 1, at art. 9.

because it eliminates the problem before any damage is done, but also because it can usually be implemented by invoking a relatively fast-moving procedure.

VIII. Appellations of Origin — Geographic Names

Except in the case of prohibiting importation of goods bearing a false indication of source, nothing in the Paris Convention imposes an obligation upon any country to protect geographic names or other indications of geographic origin, sometimes referred to as appellations of origin. This is a matter of considerable importance to countries which would like to have worldwide recognition of appellations of origin, e.g., Champagne wine, Swiss cheese, or Parma ham. In many countries these appellations of origin have become generic terms or otherwise fallen into the public domain. A relatively small group of European countries has injected into the current efforts to satisfy demands of developing countries, proposals to compel each member of the Paris Union to protect geographic names which have acquired recognition in the trade.³² This issue was the subject of considerable discussion in the 1982 session of the Diplomatic Conference, but is still far from being resolved. Substantial agreement has been reached on provisions for protecting the public from being misled by misuse of a geographic term, but the United States has not agreed, and probably will not agree, to provisions designed to protect the vested interests of private enterprise where there is no evidence that the public is misled or deceived.³³

Developing countries are seeking protection of geographic names from a different point of view. Having few geographic names which are now recognized on a worldwide basis, these countries are proposing that each developing nation designate up to two hundred geographic terms which would be protected by every member of the Paris Union regardless of whether or not the terms are ever used.³⁴ Most industrial countries are opposed to this suggestion as a matter of principle, but a compromise involving a smaller number of terms for a specified period of time will probably evolve in due time.

IX. Unfair Competition

General provisions of the treaty require each member state to assure nationals of all member states effective protection against unfair competition—that is, against any act of competition contrary to honest practices in industrial or commercial matters.³⁵ Specifically, the Treaty prohibits acts which create confusion with a competitor, false allegations

³² Diplomatic Conference, Geneva, 1982. Paris Convention, *supra* note 1, proposed art. 10 quater.

³³ PR/DC/INF 37 Annex II.

³⁴ PR/DC/4, proposed art. 10 quater.

³⁵ Paris Convention, *supra* note 1, at art. 10 bis.

which discredit a competitor, and indications or allegations liable to mislead the public as to the nature, characteristics, or quantity of the goods.

X. Inventors' Certificates

In Stockholm, in 1967, at the insistence of the Soviet Union and other members of the Socialist bloc, the Paris Convention was amended to afford priority rights to applicants for inventors' certificates — the same priority rights as are available to applicants for patents. This right is available only in those countries where the applicant has the unrestricted option to apply for a patent or for an inventor's certificate.³⁶

Initiatives of the Soviet Union, supported by others in the socialist bloc, have injected into the current negotiations the issue of equating inventors' certificates with patents.³⁷ While members do not object to this concept on principle, negotiations are stalled by the Soviet demand that in some areas of technology only inventors' certificates would be available. Industrial countries, led by the United States, have opposed any exception to the rule that patents be available in Socialist bloc countries in all technologies where inventors' certificates are available. Otherwise, socialist bloc countries would be able to curtail or even eliminate patent protection and issue only inventors' certificates. Discussions continued in Geneva in 1982, but no agreements were reached.³⁸

XI. Conclusion

For a hundred years the Paris Convention has provided the framework for worldwide protection of industrial property. Minimum protection for the benefit of all member countries has been strengthened by each of the six revisions. This minimum protection has provided the basis for a century of successful licensing and transfer of technology throughout the world. During that time many nations which started as developing countries have become industrialized.

Developing countries continue to pursue their policy of seeking concessions in all international arrangements by seeking revision of the Paris Convention to provide benefits for themselves. Even though many industrial countries have agreed to provisions such as exclusive compulsory licenses and automatic forfeiture, some progress has been made toward a revision which will satisfy the position of the United States, expressed during the 1981 session of the Conference. Probably one or two more sessions of the Diplomatic Conference will be required before an agreement will be reached concerning the content of the next revision.

³⁶ *Id.* at art. 4 I.

³⁷ *Id.* Stockholm Revision, 1967, revision of art. 1. See PR/DC/3.

³⁸ Diplomatic Conference, Geneva, 1982. PR/DC/INF/35.