

# Federal Law on the Statute and Tasks of the Federal Institute of Intellectual Property\*

(of March 24, 1995)

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## Section 1 Organizational Form and Tasks

### *Organizational Form*

#### *Art. 1.—*

(1) The Federal Institute of Intellectual Property (Institute) is a public law institution of the Confederation with its own legal personality.

(2) The Institute shall be autonomous in its organization and the conduct of its business; it shall keep its own accounts.

(3) The Institute shall be run in accordance with the principles of business administration.

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*Source:* Communication from the Swiss authorities. Translation by the International Bureau of WIPO.

\*\* Added by the International Bureau of WIPO.

<sup>1</sup> Not reproduced here (*Editor's note*).

## *Tasks*

*Art. 2.—*

(1) The Institute shall carry out the following tasks:

(a) to prepare legislative instruments on patents for invention, industrial designs, copyright and neighboring rights, topographies of semiconductor products, trademarks and indications of origin, public armorial bearings and other public signs and all other legislative instruments in the field of intellectual property insofar as other administrative units of the Confederation are not competent;

(b) to implement the legislative instruments under item (a) and international treaties in the field of intellectual property in accordance with the special legislation;

(c) to advise the Federal Council and the other Federal authorities on matters of intellectual property in the area of public economy;

(d) to represent Switzerland, where necessary in collaboration with other administrative units of the Confederation, within the framework of international organizations and conventions in the field of intellectual property;

(e) to collaborate in representing Switzerland within the framework of other international organizations and conventions insofar as these also concern intellectual property;

(f) to participate in technical cooperation in the field of intellectual property;

(g) to provide services on a private law basis in its field of competence; to provide information, in particular, on the systems of protection for intellectual property rights, on titles of protection and on the state of the art.

(2) The Federal Council may entrust the Institute with further tasks; Articles 13 to 15 shall be of application.

(3) The Institute shall collaborate with the European Patent Organisation, with other international organizations and with domestic and foreign organizations.

(4) It may obtain services, against remuneration, from other administrative units of the Confederation.

## **Section 2 Organs and Staff**

### *Organs*

*Art. 3.—*

(1) The organs of the Institute shall be:

(a) the Council of the Institute;

(b) the Director;

(c) the Audit Office.

(2) They shall be appointed by the Federal Council.

### *Council of the Institute*

*Art. 4.—*

(1) The Council of the Institute shall comprise a Chairman and eight further members.

(2) It shall be responsible for approving the management report, the annual accounts and the budget estimates of the Institute.

(3) It shall submit the schedule of fees to the Federal Council for its approval and shall request from the Federal Council the compensation to be paid by the Confederation for the services to the public economy provided by the Institute.

(4) It shall determine the composition of the executive.

## *Director*

### *Art. 5.—*

(1) The Director shall be bound by the instructions of the Federal Council or of the competent Department when carrying out its statutory tasks; Article 1(2) and the special legislation shall remain unaffected.

(2) The Director shall head the executive and shall make a yearly report on the activities of the Institute to the supervisory authority.

## *Audit Office*

*Art. 6.* The Audit Office shall audit the accounts and report to the Council of the Institute.

## *Conduct of Business*

### *Art. 7.—*

(1) The executive shall be responsible for the conduct of the Institute's business except where the Council of the Institute is explicitly competent under Article 4 or Article 8(3).

(2) It shall draw up each year the management report, the annual accounts and the budget estimates.

## *Staff*

### *Art. 8.—*

(1) The Institute shall appoint staff in accordance with public law; the Federal Council shall issue the necessary regulations.

(2) The Institute shall have full competence in the appointment of staff.

(3) The conditions of appointment for members of the executive shall be laid down by the Council of the Institute.

## **Section 3 Supervision**

### *Art. 9.—*

(1) The Institute shall be supervised by the Federal Council.

(2) The statutory powers of the Federal Audit Office and the high parliamentary supervision of the administration shall remain unaffected.

## **Section 4 Planning and Funding**

### *Planning*

*Art. 10.* The Institute's operational and development planning shall be conducted by means of the following instruments:

(a) the basic plan;

(b) a rolling four-year plan;

(c) the annual budget estimates.

## *Treasury*

### *Art. 11.—*

- (1) The Institute shall hold a current account with the Confederation.
- (2) The Confederation shall grant the Institute loans at market rates to ensure its liquidity.
- (3) The Institute shall invest excess monies with the Confederation at market rates.

## *Working Funds*

*Art. 12.* The working funds of the Institute shall comprise the fees for its statutory activities, remuneration for services and compensation for services to the public economy.

## *Fees for Statutory Activities*

### *Art. 13.—*

- (1) The Institute shall levy fees in connection with the granting and maintenance of intellectual property titles, the keeping and publication of registers, the grant of authorization and supervision of collecting societies and publications prescribed by law.
- (2) Fees shall be determined in such a way that, together with the remuneration and compensation, they cover the costs of each area of legal protection over a four-year average.
- (3) The schedule of fees of the Institute shall require approval by the Federal Council.

## *Remuneration for Services*

*Art. 14.* The remuneration for services provided by the Institute shall be based on the market; the Institute shall notify the applicable tariffs.

## *Compensation for Services to the Public Economy*

*Art. 15.* The services to the public economy requested by the Confederation within the framework of a four-year plan in accordance with Article 2(1)(a) and (c) to (f) and (2) shall be compensated.

## *Reserves*

### *Art. 16.—*

- (1) Any profit made by the Institute shall be used to constitute reserves.
- (2) Reserves shall be used by the Institute, in particular, to finance future investments; they may not exceed an amount commensurate with the needs of the Institute.

## *Exemption from Taxation*

### *Art. 17.—*

- (1) The Institute shall be exempt from any taxation by the Federation, the Cantons or the municipalities.
- (2) Federal Law shall remain unaffected with respect to:
  - (a) value-added tax on remuneration in accordance with Article 14;
  - (b) withholding tax and stamp tax.

## **Section 5 Final Provisions**

### *Transitional Law*

*Art. 18.—*

- (1) The Institute shall replace the Federal Intellectual Property Office (Federal Office).
- (2) It shall assume the current inventory of the Federal Office as its own property.
- (3) Employment relationships shall become subject to the new staff regulations in accordance with Article 8, under the existing conditions, by January 1, 1997, at the latest.
- (4) Fees and remuneration that have become due prior to the entry into force of the new law shall be determined in accordance with the previous law.

### *Referendum and Entry into Force*

*Art. 19.—*

- (1) This Law shall be subject to optional referendum.
- (2) The Federal Council shall decide its entry into force.

*Art. 20.*<sup>2</sup>

### **Appendix**<sup>3</sup>

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<sup>2</sup> *Ibid.* (Editor's note).

<sup>3</sup> *Ibid.* (Editor's note).