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# *An Uncomfortable Circle of Knowledge: An Examination of the Nairobi Treaty on the Protection of the Olympic Symbol*

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## **Introduction**

In 1959, at the age of ninety-eight and living in strained financial circumstances, the Baroness de Coubertin granted a fifteen minute interview to the now 'dean' of Olympic historians, John Lucas. When asked to reminisce about her husband Pierre de Coubertin, founder of the Modern Olympic Movement, her first words referred to the fact that although she loved him very much she could never totally forgive him for having spent "all his money," as well as most of her own inherited family fortune, on Olympic matters.' Madame de Coubertin's disclosure underscores the fact that for well over the first-half century of its history the International Olympic Committee (IOC) existed in a state of financial decline. The second half-century of the Modern Olympic Movement's history reflects an exceedingly different state of affairs. The IOC now embraces quadrennial revenues in excess of four billion U.S. dollars. Given what is at stake in today's world, that is, literally millions of dollars generated by the Olympic five ring symbol alone, it is appropriate to revisit the IOC's vigorous efforts to establish its authority over use of Olympic words, emblems, and rings. How did this "rags to riches" state materialise and, more importantly, what has the IOC done to protect their five-ring Olympic logo which identifies and distinguishes it from all others?

Today, with the insurgence of vast revenues generated through a phenomenon referred to as "Olympic commercialism," composed largely of the sale of television broadcast rights and corporate sponsorship funding, the financial instability that once existed within the IOC is difficult to imagine. Conceived by the IOC's Commission of New Sources of Financing, revenues generated through corporate sponsorship have become a major source of income for the Modern Olympic Movement, presently accounting for some 40% of the IOC's overall revenue-generating program. Organized in 1982, the Commission of New Sources of Financing is responsible for identifying potential areas of opportunity for the generation of revenues and for recommending a strategic direction to the Executive Board of the IOC for their acquisition. Indeed, such acquisition is stimulated by the IOC's requirement of vast amounts of money in order to: (1) stage Olympic festivals in conjunction with local Organizing Committees, (2) support, in part, the activities of the International Sport Federations (IFs) and National Olympic Committees (NOCs), and (3) underwrite its own administrative costs. Refinement of the IOC's knowledge regarding the television industry and the marketing of its Olympic symbols, has resulted in the IOC becoming a wealthy, high profile, and influential transnational organization.

The IOC's contemporary efforts to reap revenue by courting and subsequently granting multinational corporations an exclusive opportunity to link their

marketing programs to the powerful symbolism of the five-ring Olympic logo, a logo which scientifically-conducted international polls tell us is the most recognized symbol in the world, is contingent upon its ability to protect the mark from being unlawfully infringed upon. Many within the Olympic ‘family’ feel they have “a legal and moral right to protect the intangible elements and properties that are attributes of its name and symbol and it would be remiss for the good of the movement if it were not vigilant and aggressive in enforcing those rights.”<sup>2</sup> As one Olympic family member stated, “one of our greatest sources of revenue is licensing companies to call themselves the ‘Official Olympic Company’ or ‘Official Olympic Supplier’ in a particular category,” and if they did not protect their “official marks” they “would be cutting” their “own throats.”<sup>3</sup> These words take on significant meaning when linked to the assertion of Richard Pound, IOC member to Canada and financial guru of the organisation, who has stated that if (Olympic) sport had to exist without the revenues derived from sponsorship and commercialism, all that would remain would be “a large, sophisticated, finely-tuned engine developed over a period of 100 years - with no fuel.”<sup>4</sup>

This paper will examine one effort to enhance and protect the IOC’s legal rights to its five ring mark by focusing on the World Intellectual Property Organization (WIPO) and, more significantly, the Nairobi Treaty on the Protection of the Olympic Symbol. Described as offering “some protection to the IOC in those States without a strong internal protection program,”<sup>5</sup> the Treaty was adopted at Nairobi on 26 September 1981. Yet despite the international stature of the Olympic Games and its five-ring Olympic logo, most of the scholarly work done on this topic has relied on various secondary sources, thereby restricting and sadly warping the scope of the inquires. In order to redress this state of affairs, much of this work relies on primary source material located in the IOC archives in Lausanne, Switzerland, and the WIPO online archives located in Geneva, Switzerland.

### **World Intellectual Property Organization (WIPO)**

The WIPO was established by a convention<sup>6</sup> signed at Stockholm on 14 July 1967, and later amended on 28 September 1979.<sup>7</sup> The foundations of what is now known as WIPO go back to 20 March 1883 when the Paris Convention for the Protection of Industrial Property was adopted,<sup>8</sup> and to 9 September 1886 when the Berne Convention for the Protection of Literary and Artistic Works was adopted. Both Conventions provided for the establishment of an “International Bureau” or secretariat. The two Bureaus were united in 1893 and functioned under various names until 1970, but following the entry into force of the WIPO convention, the Bureaus became known as the International Bureau of Intellectual Property. The expanding scope of WIPO’s responsibilities has resulted in a rapid increase in the membership of the organization as well as the intellectual property Unions administered by WIPO.<sup>9</sup>

It is one of sixteen specialized agencies of the United Nations system of organizations. Membership in WIPO is open to any State which is a member of the Paris or Berne Unions and to any other State satisfying one of the following conditions: (1) it is a member of the United Nations, any of the specialized agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, (2) it is a party to the Statute of the International Court of Justice, or (3) it has been invited by the General Assembly of WIPO to become a party to the Convention.<sup>10</sup>

The objectives of WIPO are: (1) to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization, and (2) to ensure administrative cooperation among the intellectual property Unions, that is, the “Unions” created by the Paris and Berne Conventions and several sub-treaties concluded by members of the Paris Union.” As to WIPO’s essential purpose, that is, the promotion of the protection of intellectual property throughout the world, it encourages the conclusion of international agreements designed to protect such property. Intellectual property comprises two main branches: (1) industrial property, focussing on inventions, trademarks, industrial designs, and appellations of origin, and (2) copyright, focussing on literary, musical, artistic, photographic, and audiovisual works.

As a specialized agency of the United Nations, WIPO is responsible for taking appropriate action in accordance with its basic instrument, including those treaties and agreements it administers. WIPO is also charged with the promotion of creative intellectual activity and for facilitating the transfer of technology related to industrial property to developing countries in order to accelerate their economic, social, and cultural development. According to Kamil Idris, Director General of WIPO, “WIPO’s fundamental function may be broadly, but fairly, said to be the promotion of the progress of humankind.”<sup>11</sup>

## Nairobi Treaty on the Protection of the Olympic Symbol

From the first public appearance of the Olympic logo at the 20<sup>th</sup> anniversary of the Modern Olympic Movement<sup>13</sup> the IOC has relied primarily on a reactive policy of identification and protest to protect the new globally recognized five-ring Olympic mark. The IOC has, historically, strongly recommended that all NOCs pay great attention to this problem in their respective countries, and further asked NOCs to apply for juridical protection of the Olympic words and symbols in their respective States. In the cases where Olympic words and symbols were being utilized for athletic events that in no way concerned the Olympic movement, or for commercial purposes, the NOCs were asked to react energetically to stop said use.<sup>14</sup>

Within the IOC, the campaign that had begun in July 1949 against increasing misuses of the Olympic words and symbols had to some extent been successful.<sup>15</sup> Yet, until recently, and in spite of a bye-law to Rule 6 of the Olympic Charter which expressly stated that the IOC “shall take every appropriate step possible,”<sup>16</sup> nothing had been done to obtain “legal protection on a national and international basis” of the Olympic symbol for the benefit of the IOC.<sup>17</sup> In lieu of its own legal protection, the IOC had shifted the responsibility of securing the Olympic symbol to each NOC in observance of Rule 6, identifying the Olympic flag, symbol and motto as the “exclusive property of the IOC.”<sup>18</sup>

In an initial attempt to secure the protection of the Olympic symbol internationally, the IOC focussed its efforts on the WIPO. As the five-ring logo constituted a “service mark,” it was not possible to have the symbol entered in the WIPO’s international register without the request of a national administration under whose jurisdiction the body seeking to have its mark protected resides. Unfortunately, the Swiss government did not recognize the Olympic logo as a trademark, and thus refused to make the request on the IOC’s behalf. In response to the Swiss government’s position, the IOC appealed the decision, pointing out that it used its five-ring symbol on its publications, notepaper, and numerous other media, thereby making the symbol a trademark. The Swiss administration accepted this point of view and the Federal Intellectual Property Office in Berne, Switzerland registered the symbol. This action protected the Olympic symbol in Switzerland against unauthorized use in reviews, periodicals, books, as well as any photographic or graphic reproduction. With governmental recognition, the IOC requested that the administration ask the WIPO to register the symbol internationally, such registration being valid in the twenty-four States linked by the Madrid Agreement Concerning the International Registration of Marks.<sup>19</sup> Following the IOC’s request, the Swiss administration petitioned the WIPO to have the symbol entered in its international register.

However, the IOC was not satisfied with the limited registration offered by the Madrid Agreement. Aware that the Paris Convention for the Protection of Industrial Property was to be revised at an upcoming diplomatic conference, the IOC searched for a government willing to propose to the WIPO that an agenda item discussing specific protection for the Olympic Symbol, as had been obtained in 1949 for the Red Cross,<sup>20</sup> should be added to the conference. The government of Kenya, with the support of the National Olympic Committee Kenya, heard the IOC’s appeal and proposed that the forthcoming diplomatic conference sign either a special convention or a protocol attached as a separate part to the Paris Convention.<sup>21</sup>

In order to succeed, the IOC knew that this initiative would require the support of other States. To achieve this, the IOC made use of the new point 6 of the bye-law to Rule 6 in the Olympic Charter approved at the 79<sup>th</sup> Session of the IOC in Prague on 16 June 1977, which requires the Executive Board’s approval of the NOC’s emblems.<sup>22</sup> Given the low probability of any technical objections, and remembering that this was done to achieve another purpose, this task was delegated to Monique Berlioux, Director of the IOC.<sup>22</sup> Having been asked to submit their emblems to the Executive Board for approval, each NOC was asked to inform their appropriate State authority that they supported all efforts to secure the international protection of the Olympic symbol. In response, several NOCs, in particular those of India, the Netherlands and Tunisia, reacted immediately to the IOC’s appeal by sending their national authority a letter in support of the international protection of the Olympic symbol, with a follow-up copy to the IOC.<sup>24</sup> Not only did this effort encourage other States to support the proposals made by Kenya, it also avoided those States linked to the Madrid Agreement that refused to recognize the Swiss request to register the Olympic symbol in the WIPO’s international register.<sup>25</sup>

By the autumn of 1981, the IOC had gathered the necessary political support for the proposals made by the government of Kenya to introduce a Treaty on the Protection of the Olympic Symbol at the WIPO conference in Nairobi (see Appendix A). On yet another political front the IOC had, only a few months earlier, been issued an exceptional decree from the Swiss Federal Council acknowledging the general rights of the IOC as well as a formal and express decision granting the IOC certain privileges in the areas of taxation and immigration. In the words of Howard Stupp, Director of Legal Affairs of the IOC, “the Swiss Federal Council has raised the IOC above the other non-governmental institutions.”<sup>26</sup>

As the Nairobi conference approached, the IOC made arrangements to send a representative to Nairobi, the capital of Kenya. Upon his return, a report was submitted to the IOC General Session in Baden-Baden on 29 September 1981

indicating that a vote was taken on 26 September and that 22 nations had agreed to sign the convention to protect the IOC emblems (see Appendix B).<sup>27</sup> Predictably, given the exclusive rights assigned to the United States Olympic Committee to the words “Olympic,” “Olympiad,” and “Citius, Altius, Fortius,” as well as to Olympic-related symbols by Public Law 95-606 (The Amateur Sports Act), the delegate from the United States government attending the conference had refused to sign without explanation.<sup>28</sup>

The Treaty, entitled *Nairobi Treaty on the Protection of the Olympic Symbol*, is open to membership by any State member of the WIPO, the Paris Union, the United Nations, or any of the specialized agencies brought into relationship with the United Nations. The Treaty entered into force on 25 October 1982, one month after the day on which the “third instrument of ratification, acceptance, approval or accession” had been submitted by a State to the Director General of WIPO.<sup>29</sup> All States which are party to the Treaty are under the obligation to refuse or to invalidate the registration as a mark and to protect by appropriate measures the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol. Exceptions to this obligation include any mark consisting of or containing the Olympic symbol where that mark was registered in that State prior to the date on which the Treaty entered into force with respect to that State. The Treaty also ensures that whenever a license fee is paid to the IOC for its authorization to use the Olympic symbol for commercial purposes, part of the revenue must go to the NOCs located in the countries party to the treaty.

### **Protecting the Olympic Symbol**

The issue of the protection of the Olympic symbol took on heightened urgency following the adoption of the Nairobi Treaty with the arrival of a letter and gift from Klaus Juergen Hempel, Managing Director and Director of the Board, International Sports Leisure Marketing Aktiengesellschaft (ISL) in Lucerne, Switzerland.<sup>30</sup> In his letter, Hempel expressed his company’s interest to expand its sports marketing activities beyond the sphere of World Cup Soccer, at the time its major client. The president of the IOC, Juan Antonio Samaranch, graciously responded on 17 December 1982, opening the door for future discussion between the IOC and ISL.<sup>31</sup> Soon after, discussions were initiated in hopes of implementing a new worldwide sponsorship programme that would eventually be known as The Olympic Programme (Top).<sup>32</sup>

Given this new initiative aimed at marketing the Olympic symbol, ISL submitted a confidential report on the protection of the Olympic symbol to the IOC which included a number of comments.<sup>33</sup> It was noted that with the exception of the United States and (to some extent) Canada, where local laws exist, the Olympic symbol is protected only under international copyright law. It was further noted that the copyright of the Olympic symbol which was created by Pierre de Coubertin in 1913 would expire on 31 December 1987, fifty years after his death.<sup>34</sup> Although the Nairobi Treaty offers some protection to the IOC of the Olympic Symbol, not all Olympic family countries have as yet signed the Treaty; very few governments have ratified it internally. Therefore, after 2 September 1987, in a country that had not ratified the Nairobi Treaty, any individual or firm might use the Olympic symbol to market an initiative. Subsequent ratification could not prevent that person already using the Olympic Symbol from continuing to do so. Finally, it was suggested that the IOC should consider adding some sort of design to the Olympic symbol and that the IOC should have this new “design plus symbol” copyrighted as a new logo for the International Marketing Programme.

In response to the ISL report, Monique Berlioux echoed ISL’s comments at the Executive Board Meeting in Calgary on 25 February 1985, and called for the IOC to encourage every NOC to seek its government’s ratification of the Nairobi Treaty.<sup>35</sup> In response to Berlioux’s comments, Richard Pound thought that very few people were aware of the danger involved. Understanding the importance of this situation and its detrimental impact on the IOC’s marketing initiatives, the President concluded that a general report would be prepared by the IOC lawyer, legal adviser, and adviser of marketing on the legal status of the Olympic symbol in 25-30 major countries.<sup>36</sup>

At the Executive Board meeting in Berlin on 31 May 1986, the President, upon referring to two reports on the protection of the Olympic symbol by IOC legal advisers, informed the members that the question of copyright was extremely complicated.<sup>37</sup> Concerned about the possible damage to the IOC/ISL initiative, Pound thought that the “circle of knowledge” in this matter was wider than was comfortable and that the IOC should be careful about raising this matter in any publications or documentation. He further added that it was unlikely that many of the developed countries would ratify the Nairobi Treaty due to their internal copyright laws. Following a lengthy discussion, it was decided that Pound and Kéba M’Baye, IOC Member to Senegal, would study the question of copyright and present their views on the situation and a proposal on how to protect the symbol at future meetings.<sup>38</sup>

Due to the fact that the copyright protection afforded the Olympic Symbol would be substantially weakened after 31 December 1987, Pound and M'Baye suggested to the Executive Board that the only solution would be for the IOC to create a new emblem and to seek its protection by registering such an emblem as a "mark." In response, it was decided that Pound and M'Baye would prepare a written report for the Executive Board recommending the creation of a new IOC emblem containing the Olympic rings which would be commercialised, and that specialist designers would be sought for the new emblem before 1986.<sup>39</sup>

The report, submitted to the Executive Board in Lausanne on 11 February 1986, outlined two possible positions the IOC could adopt: (1) to find a new emblem which could be commercialized, as were the NOC's emblems, which meant abandoning a symbol to which the Olympic family was sentimentally attached, or (2) to keep its present symbol and claim that it was an element of its personality. Another possible solution offered by Pound and M'Baye in the report was to "try to make more countries ratify the Nairobi Treaty," but both admitted "there was little hope in this respect."<sup>40</sup> Throughout the discussion, other options were tabled by the members, including one that suggested changing the order of the five interlaced rings from its current ordered blue, yellow, black, green, and red arrangement. However, it was noted that something similar had already been attempted before by using the rings in an inverted form (two above and three below). But this attempt had to be abandoned as the risk of confusion on the part of the general public was too great.<sup>41</sup>

Support for one of the conclusions reached by Pound and M'Baye came from ISL in the form of a letter distributed to the Executive Board in Seoul on 22 April 1986 addressed to ISL by K. Vorwerk from the Law office of Gerenberg-Gossler and Partners.<sup>42</sup> Commissioned by ISL to conduct a study on the question of the Olympic symbol, Vorwerk concluded that it was possible for the IOC to continue using the current five ring symbol for official business. He also added that for commercial reasons, and in order to guarantee effective protection for a longer period, it would be necessary to create a new symbol. But this, he warned, would not be an easy task, as problems relating to the exclusive authorisation of the IOC to use the new symbol may impinge on the rights of some NOCs, particularly those in the larger, developed countries.<sup>43</sup> Responding to Vorwerk's warning, Pound stated that in the final analysis, he "did not know whether the creation of a new symbol would be useful to the IOC as the market would be extremely confused, particularly if the IOC continued to use the current symbol for official internal purposes."<sup>44</sup>

## A Final Decision and Conclusion

As the debate regarding the protection of the Olympic symbol continued, it was finally decided that Pound, M'Baye, and François Carrard would propose a solution regarding the question of the Olympic symbol that might lead to a final decision at the forthcoming meeting of the Executive Board in February 1987.<sup>45</sup> At that February meeting the working group suggested: (1) to maintain the present Olympic symbol, which was part of the legal personality of the IOC and which would be defensible to a certain extent as such even after it had entered the public domain with the expiry of the copyright, (2) to create, only if the need became apparent, a new symbol easily recognizable as belonging to the IOC, for instance the rings with the initials IOC/ICO.<sup>46</sup> However, in the opinion of the Working Group this did not seem necessary at the present time. Following an open debate, the Executive Board approved the report as submitted and asked the Working Group to look into national legislation concerning the Olympic symbol in a certain number of countries where problems could arise.

In the final analysis, whether or not the Olympic symbol fell into the public domain after 31 December 1987 really had no bearing on the continued use by the IOC of its Olympic symbol. The IOC has invested a great deal of history, energy, and money into the promotion of the symbol since its public introduction in 1914. However, once in the public domain, the symbol would become the object of commercial exploitation. Use of the symbol to falsely imply some connection with the IOC or the Olympic Movement can be dealt with through the courts where such unauthorized use takes place. More difficult is the situation where only the Olympic symbol is used with no statement or implication that the user of the symbol has any connection with the Olympic family or the Olympic Games. The only defence to this situation would be to conduct an intensive propaganda campaign with a view to protecting the Olympic symbol, possibly in the context of the Nairobi Treaty.

If the Treaty were to be unreservedly ratified in a large number of economically developed countries, it would certainly provide the IOC with sufficient protection for the Olympic symbol. Unfortunately, the continued ratification of the Nairobi Treaty has proved to be a difficult task. Out of the current list of States that have become party to the Treaty, some thirty-eight, only a few among the world's industrialized countries rely on the Treaty for the protection of the Olympic symbol. Looking ahead to Sydney and the Games of the 27<sup>th</sup> Olympiad, the IOC will need to depend on the more developed NOCs who have a strong internal protection program for the ultimate protection of the Olympic Symbol.

## Appendix A

### Nairobi Treaty on the Protection of the Olympic Symbol adopted at Nairobi on September 26, 1981

*Trait. & de Nairobi concernant la protection du symbole olympique  
adopté à Nairobi le 26 septembre 1981*

*Tratado de Nairobi sobre la protección del Símbolo Olímpico  
adoptado en Nairobi el 26 de septiembre de 1981*

Bibliographic data  
137E  
organization: WIPO  
Short title: Nairobi Treaty (re: Olympic Symbol)  
Subject matter: GEN  
Text Identifier: WO-NAI  
WDN: 3735P.ASC

#### CHAPTER I Substantive Provisions

##### Article 1: Obligation of States

Any State party to this Treaty shall be obliged, subject to Articles 2 and 3, to refuse or to invalidate the registration as a mark and to prohibit by appropriate measures the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol, as defined in the Charter of the International Olympic Committee, except with the authorization of the International Olympic Committee. The said definition and the graphic representation of the said symbol are reproduced in the Annex.

##### Article 2: Exceptions to the Obligation

- (1) The obligation provided for in Article 1 shall not bind any State party to this Treaty in respect of:
  - (i) any mark consisting of or containing the Olympic symbol where that mark was registered in that State prior to the date on which this Treaty enters into force in respect of that State or during any period during which, in that State, the obligation provided for in Article 1 is considered as suspended under Article 3;
  - (ii) the continued use for commercial purposes of any mark or other sign, consisting of or containing the Olympic symbol, in that State by any person or enterprise who or which has lawfully started such use in the said State prior to the date on which this Treaty enters into force in respect of that State or during any period during which, in that State, the obligation provided for in Article 1 is considered as suspended under Article 3.
- (2) The provisions of paragraph (1)(i) shall apply also in respect of marks whose registration has effect in the State by virtue of a registration under a treaty which the said State is a party to.
- (3) Use with the authorization of the person or enterprise referred to in paragraph (1)(ii) shall be considered, for the purposes of the said paragraph, as use by the said person or enterprise.
- (4) No State party to this Treaty shall be obliged to prohibit the use of the Olympic symbol where that symbol is used in the mass media for the purposes of information on the Olympic movement or its activities.

**Article 3:  
Suspension of the Obligation**

The obligation provided for in Article 1 may be considered as suspended by any State party to this Treaty during any period during which there is no agreement in force between the International Olympic Committee and the National Olympic Committee of the said State concerning the conditions under which the International Olympic Committee will grant authorizations for the use of the Olympic symbol in that State and concerning the part of the said National Olympic Committee in any revenue that the International Olympic Committee obtains for granting the said authorizations.

**CHAPTER II  
Groupings of States**

**Article 4:  
Exceptions to Chapter I**

The provisions of Chapter I shall, as regards States party to this Treaty which are members of a customs union, a free trade area, any other economic grouping or any other regional or subregional grouping, be without prejudice to their commitments under the instrument establishing such union, area or other grouping, in particular as regards the provisions of such instrument governing the free movement of goods or services.

**CHAPTER III  
Final Clauses**

**Article 5:  
Becoming Party to the Treaty**

- (1) Any State member of the World Intellectual Property Organization (hereinafter referred to as “the Organization”) or of the International (Paris) Union for the Protection of Industrial Property (hereinafter referred to as “the Paris Union”) may become party to this Treaty by:
  - (i) signature followed by the deposit of an instrument of ratification, acceptance or approval, or
  - (ii) deposit of an instrument of accession.
- (2) Any State not referred to in paragraph (1) which is a member of the United Nations or any of the Specialized Agencies brought into relationship with the United Nations may become party to this Treaty by deposit of an instrument of accession.
- (3) instruments of ratification, acceptance, approval and accession shall be deposited with the Director General of the Organization (hereinafter referred to as “the Director General”).

**Article 6:  
Entry Into Force of the Treaty**

- (1) With respect to the three States which are the first to deposit their instruments of ratification, acceptance, approval or accession, this Treaty shall enter into force one month after the day on which the third instrument of ratification, acceptance, approval or accession has been deposited.
- (2) With respect to any other State which deposits its instrument of ratification, acceptance, approval or accession, this Treaty shall enter into force one month after the day on which that instrument has been deposited.

**Article 7:  
Denunciation of the Treaty**

- (1) Any State may denounce this Treaty by notification addressed to the Director General.
- (2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

**Article 8:  
Signature and Languages of the Treaty**

- (1) This Treaty shall be signed in a single original in the English, French, Russian and Spanish languages, all texts being equally authentic.
- (2) Official texts shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian and Portuguese languages, and such other languages as the Conference of the Organization or the Assembly of the Paris Union may designate.
- (3) This Treaty shall remain open for signature at Nairobi until December 31, 1982, and thereafter at Geneva until June 30, 1983.

**Article 9:  
Deposit of the Treaty;  
Transmittal of Copies;  
Registration of the Treaty**

- (1) The original of this Treaty, when no longer open for signature at Nairobi, shall be deposited with the Director General.
- (2) The Director General shall transmit two copies, certified by him, of this Treaty to all the States referred to in Article 5(1) and 5(2) and, on request, to any other State.
- (3) The Director General shall register this Treaty with the Secretariat of the United Nations.

**Article 10:  
Notifications**

The Director General shall notify the States referred to in Article 5(1) and 5(2) of:

- (i) signatures under Article 8;
- (ii) deposits of instruments of ratification, acceptance, approval or accession under Article 5(3);
- (iii) the date of the entry into force of this Treaty under Article 6(1);
- (iv) any denunciation notified under Article 7.

**Annex**

- (1) The Olympic symbol consists of five interlaced rings: blue, yellow, black, green and red, arranged in that order from left to right. It consists of the Olympic rings alone, whether delineated in a single color or in different colors.

## Appendix B

### CONTRACTING PARTIES OF TREATIES ADMINISTERED BY WIPO

#### Nairobi Treaty on the Protection of the Olympic Symbol

##### Nairobi Treaty (1981)

##### Status on May 25, 1998

State	Date on which State became party to the Treaty
Algeria	August 16, 1984
Argentina	January 10, 1986
Barbados	February 28, 1986
Belarus	December 25, 1991
Bolivia	August 11, 1985
Brazil	August 10, 1984
Bulgaria	May 6, 1984
Chile	December 14, 1983
Congo	March 8, 1983
Cuba	October 21, 1984
Cyprus	August 11, 1985
Egypt	October 1, 1982
El Salvador	October 14, 1984
Equatorial Guinea	September 25, 1982
Ethiopia	September 25, 1982
Greece	August 29, 1983
Guatemala	February 21, 1983
India	October 19, 1983
Italy	October 25, 1985
Jamaica	March 17, 1984
Kenya	September 25, 1982
Mexico	May 16, 1985
Morocco	November 11, 1993
Oman	March 26, 1986
Poland	November 22, 1996
Qatar	July 23, 1983
Republic of Moldova	December 25, 1991
Russian Federation	April 17, 1986 [1]
San Marino	March 18, 1986
Senegal	August 6, 1984
Slovenia	May 14, 1998
Sri Lanka	February 19, 1984
Syria	April 13, 1984
Tajikistan	December 25, 1991
Togo	December 8, 1983
Tunisia	May 21, 1983
Uganda	October 21, 1983
Uruguay	April 16, 1984

(Total: 38 States)

Footnote:

[1] Date of ratification by the Soviet Union, continued by the Russian Federation as from December 25, 1991.

## ENDNOTES

1. John Lucas' interview with the Baroness de Coubertin was part of the early research for his doctoral dissertation, completed at the University of Maryland in 1962 entitled "Baron Pierre de Coubertin and the Formative Years of the Modern International Olympic Movement, 1883-1896." This same reminiscence by the Baroness has been recounted by other scholars. See Robert Knight Barney, "Golden Egg or Fools' Gold? American Olympic Commercialism and the IOC," in *Proceedings: Thirty-Third Session of the International Olympic Academy*, 1993, p. 123.
2. Richard E. Cross to John T. McGovern, 13 September 1949, Avery Brundage Collection, 1908- 1975 [hereafter cited as ABC], Box 225, University of Illinois, Champaign-Urbana. Although the original collection is located at the above location, the author has made use of the microfilm copy housed at the International Centre for Olympic Studies [hereafter cited as ICOS], at The University of Western Ontario, London, Ontario, Canada [hereafter cited as UWO].
3. For extended discussion of the Canadian Olympic Association's efforts to protect those Olympic insignia that would be unlawfully used, see Hams Posthuma, ed., "Olympic words and symbols: Who do they belong to?" *Olympinfo 7.5* (November 1991), pp. 1.
4. See International Olympic Committee [hereafter cited as IOC]: Marketing Department: "100 Years of the Olympic Movement/ 100 Years of Olympic Marketing," *Marketing Matters* 5 (1994), pp. 1-2.
5. IOC Official, telephone conversation with author, 2 September 1998.
6. The author has used the term "convention" to signify an agreement between sovereigns or States made at a formal assembly of persons for some common object.
7. See "Convention Establishing the World Intellectual Property Organization," in World Intellectual Property Organization [hereafter cited as WIPO] Website [database online] (Geneva, Switzerland, 1998 [cited 23 April 1998]); available from <http://www.wipo.org/>; INTERNET.
8. See "Paris Convention for the Protection of Industrial Property of March 20, 1883," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 23 April 1998]); available from <http://www.wipo.org/>; INTERNET.
9. See "Members of the WIPO Governing Bodies and Committees," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 23 April 1998]); available from <http://www.wipo.org/>; INTERNET.
10. See "World Intellectual Property Organization History," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 10 September 1998]); available from <http://www.wipo.org/>; INTERNET.
11. *Ibid.*
12. See "Message from Dr. Kamil Idris, Director General of WIPO," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 23 April 1998]); available from <http://www.wipo.org/>; INTERNET.
13. Pierre de Coubertin, *Olympic Memoirs*, trans. Geoffrey de Navacelle (Lausanne: Comité International Olympique, 1989), pp. 87-92. For a discussion on the Olympic five ring symbol and colours, see Robert K. Barney, "This Great Symbol: Tricks of History," *Olympic Review*, no. 301 9 November 1992), pp. 627-631, 641. The title "This Great Symbol" used by the author is from the writings of John J. MacAloon, see John J. MacAloon, *This Great Symbol: Pierre de Coubertin and the Origins of the Modern Olympic Games* (Chicago: University of Chicago Press, 1981).
14. IOC, "Protection of the Olympic Words and Rings: Notice for the National Olympic Committee," *IOC Bulletin*, no. 16 (July 1949), p. 20.
15. IOC, "About the Protection of Olympic words, emblems and rings," *IOC Bulletin*, no. 18 (November 1949), p. 20.

16. IOC General Session Minutes, 15-18 June 1977, Prague, IOC Archives, Musée Olympique, Lausanne, Switzerland [hereafter cited IOCA]. The specific bye-law to Rule 6 referred to by the author reads: The IOC is the responsible authority for the protection of the Olympic flag, Olympic symbol and Olympic motto which are its exclusive property. It shall take every appropriate step possible to obtain their legal protection on a national and international basis. It shall also lend its support to efforts the NOCs must make to obtain the protection of the Olympic flag, symbol and motto for the IOC within their country.
17. IOC Executive Board Minutes, 25-26 January 1978, Tunis, Annex No. 19, p. 58, IOCA.
18. *Ibid.*
19. See "Madrid Agreement Concerning the International Registration of Marks of April 14, 1891," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 23 April 1998]); available from <http://www.wipo.org/>; INTERNET. The countries linked to this agreement may, within a period of one year of registration, notify the WIPO that they do not accept the registration of the Olympic symbol as far as their territory is concerned.
20. For extended discussion on the International Committee of the Red Cross dealing primarily with the period 1945-75, see David P. Forsythe, *Humanitarian Politics: The International Committee of the Red Cross* (Baltimore, The Johns Hopkins University Press, 1977).
21. IOC Executive Board Minutes, 25-26 January 1978, Tunis, Annex No. 19, p. 58, IOCA.
22. IOC General Session Minutes, 15-18 June 1977, Prague, IOCA. The specific section of point 6 of the bye-law to Rule 6 referred to by the author reads: The design of an Olympic emblem must be submitted to the IOC Executive Board for approval. Such approval is subject to the fact that there is no risk of confusion between that emblem and the Olympic symbol (the five rings alone).
23. IOC Executive Board Minutes, 25-26 January 1978, Tunis, p. 25, IOCA.
24. *Ibid.*, p. 58.
25. *Ibid.*
26. See Howard Stupp, "The Evolution of the Legal Status of the International Olympic Committee in the XXth Century," in *Proceedings: Twenty-Eighth Session of the International Olympic Academy*, 1988, pp. 151-157. The author's reference to other non-governmental institutions refers to those organizations with headquarters based in Switzerland.
27. IOC General Session Minutes (Volume IV 1956-1988), Baden-Baden (1981), p. 292 (translation by Wolf Lyberg), ICOS, UWO.
28. For an extended discussion on Public Law 95-606 (The Amateur Sports Act), see Frank Zang, ed., *1992 United States Olympic Committee Fact Book* (Colorado Springs, Colorado: United States Olympic Committee [hereafter cited USOC], 1992), pp. 9-11.
29. See "Contracting Parties of Treaties Administered by WIPO: Nairobi Treaty on the Protection of the Olympic Symbol," in WIPO Website [database online] (Geneva, Switzerland, 1998 [cited 2 September 1998]); available from <http://www.wipo.org/>; INTERNET. The first States to deposit their instruments of ratification, acceptance, approval or accession on 25 September 1982 were Equatorial Guinea, Ethiopia, and Kenya.
30. Klaus Hempel to Juan Antonio Samaranch, n.d., ISL Marketing File, International Olympic Committee Archives, Lausanne, Switzerland [hereafter cited IOCA].
31. Juan Antonio Samaranch to Klaus Hempel, 17 December 1982, ISL Marketing File, IOCA.

32. International Sports Leisure Marketing AG, *A Presentation to the International Olympic Committee*, (New Delhi: International Olympic Committee Executive Board, 1983). The Olympic Programme has been renamed to The Olympic Partners.
33. See Minutes of the IOC/ISL meeting, 6 December 1984, ISL Union With IOC File, IOCA.
34. Copyright protection is limited in time. Many countries have adopted, as a general rule, a term of protection that starts at the time of the creation of the work and ends 50 years (in some countries, 70 years) after the death of the author. However, in some countries, there are exceptions either for certain kinds of works (e.g., photographs, audiovisual works) or for certain uses (e.g., translations).
35. IOC Executive Board Minutes, 25-28 February 1985, Calgary, p. 167, IOCA.
36. *Ibid.*
37. IOC Executive Board Minutes, 31 May - 1-4 and 6 June 1985, Berlin, p. 180, IOCA.
38. *Ibid.*
39. IOC Executive Board Minutes, 5-6 December 1985, Lausanne, p. 202, IOCA.
40. IOC Executive Board Minutes, 11-12 February 1986, Lausanne, p. 44, IOCA.
41. *Ibid.*
42. IOC Executive Board Minutes, 22-24 April 1986, Seoul, Annex No. 23, p. 154, IOCA.
43. *Ibid.*, p. 42.
44. *Ibid.*
45. IOC Executive Board Minutes, 11-13 December 1986, Lausanne, p. 51, IOCA.
46. IOC Executive Board Minutes, 11-12 February 1987, Lausanne, p. 3, IOCA.