

Preparatory Committee of the Diplomatic Conference on the Protection of Audiovisual Performances

Geneva, November 30 and December 1, 2011

REPORT

adopted by the Preparatory Committee

I. INTRODUCTION

1. The meeting of the Preparatory Committee of the Diplomatic Conference on the Protection of Audiovisual Performances (hereinafter referred to as “the Preparatory Committee”) was held in Geneva on November 30 and December 1, 2011.
2. The following States Members of WIPO were represented at the meeting: Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Botswana, Brazil, Burkina Faso, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Georgia, Germany, Greece, Haiti, Holy See, Honduras, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kenya, Lithuania, Madagascar, Malawi, Malaysia, Mexico, Monaco, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Russian Federation, Senegal, Serbia, Singapore, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zambia (92).
3. The European Union also participated in the meeting in an observer capacity.

II. ELECTION OF A CHAIR AND TWO VICE-CHAIRS

4. The Preparatory Committee unanimously elected Mr. Justin Hughes (United States of America) as President and Ms. Marisella Ouma (Kenya) and Mrs. Graciela Peiretti (Argentina) as Vice-Presidents. Mrs. Geidy Lung acted as Secretary to the Preparatory Committee. Mrs. Christine Castro-Hublin represented the Office of Legal Counsel.

III. ADOPTION OF THE AGENDA

5. The title of agenda item 4 was corrected to read “Draft Administrative Provisions and Final Clauses”.
6. The draft Agenda, as contained in document AVP/PM/1 Prov., was modified in its order by moving item number 4 to after item number 6, and afterwards it was unanimously adopted.
7. Discussions were based on documents AVP/PM/2, AVP/PM/3, AVP/PM/4, and AVP/PM/5.

IV. CONSIDERATION OF DRAFT RULES OF PROCEDURE OF THE DIPLOMATIC CONFERENCE

8. The Draft Rules of Procedure of the Diplomatic Conference were approved after modifying:
 - Rule 1(1): REPLACED WITH:

“The objective of the Reconvened Diplomatic Conference on the Protection of Audiovisual Performances (hereinafter referred to as “the conference”) is to conclude the WIPO Treaty on Audiovisual Performances (hereinafter referred to as “the treaty”) pursuant to the mandate contained in the General Assembly Document WO/GA/40/11.”

- Rule 1(2)(i): ADD “amended” before “Rules of Procedure”
 - Rule 1(2)(vi): REPLACED WITH
“Adopt the agreed statements and preambular clause pursuant to the mandate contained in the General Assembly Document WO/GA/40/11.”
 - Rule 1(3): NEW
“By virtue of adoption of this amended Rules of Procedure, any and all pre-existing accreditations, elections as officers, or elections to committees shall be considered lapsed.”
 - Rule 13(2): REPLACED “11” with “12”
9. The title of the Rules of Procedure will be: “Draft Amended Rules of the Diplomatic Conference on the Protection of Audiovisual Performances”.

V. CONSIDERATION OF THE LIST OF INVITEES TO THE DIPLOMATIC CONFERENCE AND THE TEXTS OF THE DRAFT LETTERS OF INVITATION

10. The draft of the invitation letters were proposed to be addressed to each Member Delegation in accordance with the changes introduced to the Draft Rules of Procedure of the Diplomatic Conference, by inserting the word “Reconvened” before “Diplomatic Conference on the Protection of Audiovisual Performances”, so that it will read:

“The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to invite Her/His Excellency’s Government to be represented as a Member Delegation at the Reconvened Diplomatic Conference on the Protection of Audiovisual Performances (“Diplomatic Conference”).

11. Also, the term “Draft Rules of Procedure” will change to “Draft Amended Rules of Procedure”.

12. Subject to the modifications above mentioned that would be reproduced in all the invitation letters, the list of invitees and invitation letters were approved as proposed.

VI. CONSIDERATION OF DRAFT ADMINISTRATIVE PROVISIONS AND FINAL CLAUSES FOR THE INSTRUMENT TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE

13. The Draft Administrative Provisions and Final Clauses were approved as follows:

- Article 21: Article 21 of the Draft Administrative Provisions and Final Clauses for the Treaty was modified to reflect the structure of the corresponding provision of the WPPT (Article 24). As for content, Articles 21(1) and (2) remain as proposed, with the exception of Article 21(2)(c), which the Delegations agreed should reflect Article 24(2)(c) of the WPPT, and would read as follows:

“The Assembly shall decide the convocation of any Diplomatic Conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such Diplomatic Conference.”

- Article 21(3): NEW

“(a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any of its Member States exercises its right to vote and vice versa.”

- Article 21(4): RENUMBER Article 21(3) as Article 21(4). REPLACE “Organization” WITH “WIPO”

- Article 21(5): NEW

“The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.”

- Article 21(6): REMOVED

- Article 21(7): REMOVED

- Article 21(8): REMOVED

- Article 22: Approved as proposed per the Secretariat’s recommendations

- Article 23: Approved as proposed per the Secretariat’s recommendations

- Article 24: Approved as proposed per the Secretariat’s recommendations

- Article 25: NEW

“This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.”

- Article 26: NEW

“This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.”

- Article 27: Proposed Paragraph 1 is deleted. The article shall consist of Paragraph 2 as proposed by the Secretariat REPLACING in (i) “ten States” with “30 eligible parties”

- Article 28: Approved as proposed, per the Secretariat’s recommendations

- Article 29: Approved as proposed, per the Secretariat’s recommendations

- Article 30: REPLACE “shall be” WITH “is”

VII. CONSIDERATION OF THE AGENDA, DATES, VENUE AND OTHER ORGANIZATIONAL QUESTIONS OF THE DIPLOMATIC CONFERENCE

14. AGENDA

REPLACE "Opening of the Conference by the Director General of WIPO" WITH "Opening of the Conference"

15. DATES, VENUE AND OTHER ORGANIZATIONAL QUESTIONS

The Preparatory Committee welcomed the willingness of the Government of the People's Republic of China to host the Diplomatic Conference in Beijing, China, and that the Diplomatic Conference should begin as soon as practical after 20 June, subject to agreement between WIPO and China. The Preparatory Committee also concluded that the Diplomatic Conference shall last one week, with such additional days as shall be determined by WIPO in consultation with China.

VIII. ADOPTION OF THE REPORT

16. The Delegations unanimously adopted the Draft Report.

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