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ASSEMBLIES OF THE MEMBER STATES OF WIPO

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PROGRESS REPORT OF THE WORKING GROUP ON CONSTITUTIONAL REFORM

Memorandum of the Secretariat

1. At its meeting in September 1999, the WIPO General Assembly recommended that the Director General establish a working group to consider and study proposals concerning constitutional reform and to report on its progress to the Assemblies of Member States in 2000 (document A/34/16, paragraph 159).
2. The Working Group on Constitutional Reform was duly convened by the Director General and held two sessions, the first from March 22 to 24, 2000, and the second from July 4 to 6, 2000. It unanimously elected Mr. Marino Porzio (Chile), Chair of the WIPO General Assembly, as Chair, and Ms. Michèle Weil-Guthmann (France) and Mr. Vladimír Banský (Slovakia) as Vice-Chairs. Mr. Porzio presided over both sessions of the Working Group. The reports of those sessions are available as documents WO/GA/WG-CR/3 and WO/GA/WG-CR/2/8. The present document summarizes the progress of the discussions of the Working Group, as recorded in the reports of its sessions.
3. The present report is divided into three parts. The first part reports on progress in relation to the entry into force of completed items of constitutional reform, namely, the amendment to Article 9(3) of the Convention Establishing the World Intellectual Property Organization ("the WIPO Convention"). Although this reform preceded the establishment of the Working Group, it is included in this report because of its obvious relevance to the reform

of the constitutional structure of the Organization. The second part of the document reports on those items on which the Working Group has reached provisional agreement in principle. The final part reports on outstanding items on which discussions in the Working Group are incomplete.

COMPLETED ITEMS

4. In September 1999, the Paris Union Assembly, the Berne Union Assembly and the WIPO Conference unanimously adopted an amended text of Article 9(3) of the WIPO Convention limiting the possible tenure of Directors General of WIPO to two mandates of six years each (document A/34/16, paragraph 148). In order for the amendment to enter into force, Article 17(3) of the WIPO Convention requires written notifications of acceptance of the amendment to be deposited with the Director General by three-fourths of the States that were members of WIPO at the time of the adoption of the amendment (at that time, there were 172 Member States of WIPO, thus requiring written notifications of acceptance from 129 of those States). At the date of the present document, such written notifications have been received from 24 States (see the Annex).

ITEMS ON WHICH PROVISIONAL AGREEMENT REACHED

5. The Working Group reached agreement in principle on four items, which are described in the ensuing paragraphs. With the exception of the proposed abolition of the Conferences of Representatives (paragraph 8, below), which could be achieved without any consequences for other parts of the constitutional structure of WIPO, the Working Group decided, however, that the agreement reached on the items described below should remain provisional until the Working Group had finished consideration of all outstanding items or proposals of reform. In this way, the General Assembly and other competent bodies could consider one series of proposed reforms as a single package and Member States would need to initiate their internal procedures for adoption of agreed reforms once only (see document WO/GA/WG-CR/2/8, paragraph 5).

6. Unitary Contribution System and Changes in Contribution Classes. Subject to the review of draft texts, the Working Group agreed in principle to recommend the formalization of the unitary contribution system and the changes in contribution classes that had been operative in practice since 1994 (document WO/GA/WG-CR/3, paragraphs 36 to 38).

7. Periodicity of Ordinary Sessions of the Assemblies. The Working Group agreed in principle to recommend that amendments be introduced to the treaties administered by WIPO to provide for the ordinary sessions of the WIPO General Assembly and the Assemblies of the Unions administered by WIPO to take place annually rather than once every two years (documents WO/GA/WG-CR/3, paragraph 51 and WO/GA/WG-CR/8, paragraph 22). In so deciding, the Working Group agreed that the budgetary period of two years should, however, be maintained. Noting the desire expressed for greater efficiency in the conduct of meetings of the Assemblies, the Working Group also decided that, after completing its work, it would consider what recommendations it might make to the General Assembly to improve the efficiency of the meetings of the Assemblies.

8. Conferences of Representatives. The Working Group supported fully the discontinuation of the Paris Union Conference of Representatives, the Berne Union

Conference of Representatives, the Hague Union Conference of Representatives, the Nice Union Conference of Representatives and the Lisbon Union Council (document WO/GA/WG-CR/3, paragraph 39). It recommended that, since the discontinuation of those bodies would have no consequences for the remaining constitutional structure of the Organization, each of those bodies be convened in extraordinary session in September 2000 with a view to each considering its own discontinuation. That recommendation has been acted upon by the Director General and the question of discontinuation of those bodies is an item on the consolidated draft agenda of the Assemblies in September 2000 (see document A/35/5).

9. WIPO Conference. The Working Group agreed in principle to recommend the abolition of the WIPO Conference (document WO/GA/WG-CR/2/8, paragraph 49). The abolition of the WIPO Conference raises the question of the status of States that are party to the WIPO Convention but not members of any of the Unions administered by WIPO (at present there are 12 such States). The majority of delegations in the Working Group favored the view that such States should be granted membership in the General Assembly, but with limited voting rights. It was agreed to examine the manner in which the limitation of voting rights should be drafted and implemented in the next session of the Working Group (document WO/GA/WG-CR/2/8, paragraph 49).

OUTSTANDING ITEMS

10. Executive Committees of the Paris, Berne and PCT Unions and the Coordination Committee. The Working Group agreed in principle that the Executive Committees of the Paris, Berne and PCT Unions served no useful function and should be abolished (document WO/GA/WG-CR/2/8, paragraph 43). However, the Working Group recognized that the abolition of the Executive Committees of the Paris and Berne Unions would have profound implications in so far as those Executive Committees provided the primary means by which the Coordination Committee was constituted. Informal discussions took place in the Working Group on the way in which the consequential effect on the Coordination Committee might best be accommodated. In general, two main views emerged in those informal discussions. According to the first view, the status of the Coordination Committee itself ought to be reviewed once the Working Group had had the opportunity to consider the desirability of establishing a Unitary Assembly for treaties administered by WIPO. Such a Unitary Assembly would, according to this view, remove the need for a coordinating body, like the Coordination Committee, amongst the various treaties administered by WIPO, since that function would be performed by the Unitary Assembly itself. The second main view favored the continuation of the Coordination Committee as both an executive and a coordinating body for the various treaties administered by WIPO. According to this view, further reflection was needed as to the way in which a Coordination Committee might be constituted should the Executive Committees of the Paris and Berne Unions be abolished. (See, generally, documents WO/GA/WG-CR/3, paragraphs 41 to 43 and WO/GA/WG-CR/2/8, paragraphs 35 to 43).

11. Unitary Assembly. The Working Group has not yet had the opportunity to consider in detail the possibility or desirability of establishing a Unitary Assembly for the various treaties administered by WIPO. The question will be considered at its next session.

12. Draft Texts of Modifications Agreed in Principle. The Working Group recognized that it would be necessary to consider draft texts of the various constitutional modifications that it

intended to recommend. It considered that such draft texts were best examined after the Working Group had completed reaching agreement in principle on the various items of constitutional reform that were before it.

13. The Working Group decided that its next session should be held as early as possible.

14. The WIPO General Assembly is invited to note the contents of this Progress Report.

[Annex follows]

ANNEX

AMENDMENT TO ARTICLE 9(3) OF THE WIPO CONVENTION*

State	Date on which State deposited its Notification of Acceptance	State	Date on which State deposited its Notification of Acceptance
Benin.....	January 19, 2000	Mauritius.....	January 12, 2000
Brazil.....	January 3, 2000	Nigeria.....	May 31, 2000
Burkina Faso.....	February 28, 2000	Panama.....	February 23, 2000
China.....	May 1, 2000	Republic of Korea.....	April 20, 2000
Democratic People's Republic of Korea.....	March 24, 2000	Saint Lucia.....	January 10, 2000
Denmark.....	January 7, 2000	Saudi Arabia.....	March 30, 2000
Dominica.....	April 6, 2000	Senegal.....	February 23, 2000
Ecuador.....	December 21, 1999	Sri Lanka.....	March 14, 2000
Finland.....	March 28, 2000	The former Yugoslav Republic of Macedonia.....	April 26, 2000
Holy See.....	December 16, 1999	Turkey.....	May 19, 2000
Jordan.....	February 1, 2000	United Republic of Tanzania.....	March 16, 2000
Madagascar.....	January 24, 2000	Viet Nam.....	January 20, 2000

(24)

[End of Annex and of document]

* The said amendment shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the Member States of WIPO in accordance with Article 17(3) of the WIPO Convention.