

WIPO



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**GOVERNING BODIES OF WIPO
AND THE UNIONS ADMINISTERED BY WIPO**

**Twenty-Ninth Series of Meetings
Geneva, September 23 to October 2, 1996**

MATTERS CONCERNING THE PATENT LAW TREATY

Memorandum by the Director General

1. In May 1995, the Consultative Meeting for the Further Preparation of the Diplomatic Conference for the Conclusion of the Patent Law Treaty recommended that:

“[T]he Director General of WIPO [should] seek decisions from the September 1995 session of the General Assembly of WIPO and the Assembly of the Paris Union on another approach for promoting harmonization, particularly of matters concerning the formalities of national and regional patent applications including matters such as signatures, changes in names and addresses, change in ownership, correction of mistakes, observations in case of intended refusal, representation, address for service, contents of at least the request part of the application, and use of model international forms, and that two or more sessions of a committee of experts to discuss such matters should be organized by WIPO before the September 1997 session of the said Assemblies” (WIPO document PLT/CM/4, paragraph 67).

2. In September 1995, the General Assembly of WIPO and the Assembly of the Paris Union approved the recommendations of the Consultative Meeting (see Program and Budget for the 1996-97 Biennium (WIPO document AB/XXVI/2, item 03(2))).

3. During the first session of the Committee of Experts on the Patent Law Treaty, which took place in Geneva on December 11 to 15, 1995, there was broad support among the delegations and representatives for the inclusion of provisions relating to the filing date of an application and unity of invention. It was also agreed that the Committee of Experts would have an opportunity to discuss, during its second session, which additional topics, if any, should be included in the preparatory papers for its third session and that any such suggestions would be referred to the Governing Bodies for decision (WIPO document PLT/CE/I/5, paragraphs 202 and 203).

4. The International Bureau prepared provisions on the filing date and unity of invention and presented them to the second session of the Committee of Experts, which was held in Geneva from June 17 to 21, 1996, as draft Articles 3 and 6, respectively, and draft Rules 3, 6 and 7, respectively (WIPO document PLT/CE/II/2).

5. During the second session, comments were made on these two new topics. With the exception of a reservation by four delegations concerning the inclusion of provisions on unity of invention, there was support for the draft articles and rules dealing with those topics (WIPO document PLT/CE/II/5, paragraphs 149 to 174 and 211 to 226).

6. Also during the second session, the Committee of Experts agreed to recommend that an article on the recordal of licensing agreements, the draft of which had been presented by the International Bureau in the Notes on the draft Treaty and Regulations (WIPO document PLT/CE/II/3, paragraph 8.22), should be included in the draft Treaty (WIPO document PLT/CE/II/5, paragraph 273). One delegation suggested that the draft article be broadened in order to include other matters whose recordal was appropriate (WIPO document PLT/CE/II/5, paragraph 274).

7. After a full discussion, the Committee of Experts agreed to recommend that the following two additional topics should be included in the next draft of the Treaty and Regulations in addition to the recordal of licensing agreements:

- belated claiming of priority (delayed submission of priority claim and delayed filing of the subsequent application), and
- restoration of rights where a time limit has been missed (including “further processing”) and extension of time limits which have not yet expired but whose extension has been requested by the party concerned (WIPO document PLT/CE/II/5, paragraph 276).

8. The WIPO General Assembly and the Assembly of the Paris Union are invited to approve the inclusion in the draft Patent Law Treaty of the additional topics referred to in paragraphs 3, 6 and 7, above.

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