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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

GOVERNING BODIES OF WIPO AND THE UNIONS ADMINISTERED BY WIPO

**Thirtieth Series of Meetings
Geneva, March 20 and 21, 1997**

GENERAL REPORT

adopted by the Governing Bodies

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INTRODUCTION

1. This General Report records the deliberations and decisions of the following three Governing Bodies:

WIPO General Assembly, twentieth session (8th extraordinary)
WIPO Coordination Committee, thirty-eighth session (11th extraordinary)
Berne Union Assembly, twenty-first session (9th extraordinary)

meeting in Geneva on March 20 and 21, 1997, where the deliberations took place and the decisions were made in joint meetings of two or more of the said Governing Bodies (hereinafter referred to as “the joint meeting(s)” and “the Governing Bodies,” respectively).

2. In addition to this General Report, separate reports have been drawn up for each of the said three Governing Bodies (see documents WO/GA/XX/3 Rev., WO/CC/XXXVIII/2 and B/A/XXI/1).

3. The list of the States members of the Governing Bodies and the observers invited to their sessions as of March 14, 1997, is set forth in document AB/XXX/INF/1. The European Communities were also invited. The list of participants is attached.

ITEM 1 OF THE CONSOLIDATED AGENDA:

OPENING OF THE SESSIONS

4. The thirtieth series of meetings of the three Governing Bodies (General Assembly of WIPO, WIPO Coordination Committee and Assembly of the Berne Union) was convened by the Director General of WIPO (hereinafter referred to as “the Director General”).
5. The sessions of the three Governing Bodies were opened in a joint meeting of the three Governing Bodies by the current Chairman of the WIPO General Assembly, Mr. Moses F. Ekpo (Nigeria).

ITEM 2 OF THE CONSOLIDATED AGENDA:

ADOPTION OF THE AGENDA

6. The statements made during the debate are reflected in the annex to this report.
7. The Chairman declared that, by a majority decision, item No. 5 is included in the agenda and, consequently the agenda was adopted as proposed in document AB/XXX/1 Prov. Rev.2.

ITEMS 3 AND 4 OF THE CONSOLIDATED AGENDA:

PREPARATORY WORK ON A PROTOCOL
CONCERNING AUDIOVISUAL PERFORMANCES;
PREPARATORY WORK ON A TREATY CONCERNING
INTELLECTUAL PROPERTY IN DATABASES

8. Discussions were based on documents AB/XXX/2 and 3.
9. The Delegation of Côte d'Ivoire said that the meetings proposed for September 1997 should, for the purpose of concentrating travel, preferably take place during the week immediately preceding the next ordinary sessions (September 22 to October 1) of the Governing Bodies.
10. The Delegation of the United States of America said that it had a flexible attitude as to the dates of the meetings in September 1997. It said that there was no need for preparatory documents prepared by the International Bureau.

11. The Delegation of the Netherlands, speaking on behalf of the European Union, expressed similar views to those of the Delegation of the United States of America.

12. The Delegations of Côte d'Ivoire, speaking on behalf of the African Group, Sri Lanka, speaking on behalf of the Asian Group, and China pointed out that more time was needed for the discussion of the issue of database protection than for the discussion of the proposed Audiovisual Protocol. The Delegations of Colombia and Brazil also stated that priority had to be given to the Audiovisual Protocol. The Delegation of Colombia further mentioned the need to have written proposals from Governments before the session of the Committee of Experts, which would make it possible to go ahead with knowledge of definite ideas on a protocol to the WIPO Performances and Phonograms Treaty concerning audiovisual performances. The Delegation of the Republic of Korea said that the tentative schedule concerning the Protocol on Audiovisual Performances was too narrow. Instead, the International Bureau should invite written proposals from governments by the end of May 1997. Replies and comments based on such proposals could then be submitted by the end of August 1997. On the subject of database protection, it considered a meeting in 1997 as premature. Preparatory work on this matter should be deferred until after 1998.

13. The Delegation of India, supported by the Delegation of Sri Lanka, speaking on behalf of the entire Asian Group, suggested that the International Bureau prepare a technical study on the issue of audiovisual performances and databases, particularly concerning laws and practices existing in different legal systems, as well as the bibliography of published literature.

14. Both delegations found support for these suggestions from a number of other Delegations.

15. On the question of the possible *sui generis* protection of databases, the representatives of UNESCO and WMO emphasized the importance of taking into account not only the interests of database producers, but also aspects of education, research, teaching, science, technology and exchange of meteorological data as well as the interests of other stakeholders. Alternatives to a *sui generis* protection, as well as their implications, should be examined, and an extensive debate both at the national and at the international level should be made possible. The representatives of UNESCO and WMO indicated the readiness of their organizations to cooperate with WIPO in this field.

16. The Delegations of Côte d'Ivoire and Pakistan suggested that the International Bureau seek contributions by relevant organizations, such as UNESCO, WMO and UNCTAD, in particular on the impact of a *sui generis* protection of databases on development.

17. The Director General stated that contributions from these organizations to the preparatory work would be welcome.

18. The Delegations of Côte d'Ivoire, Sri Lanka and Colombia, speaking in the name of the African, Asian and Pacific, and Latin American and Caribbean Groups, respectively, asked the International Bureau to increase the proposed number of participants whose travel costs would be covered by WIPO.

19. The Director General, replying to a question of the Delegation of the United States of America, said that such an increase could be covered by the existing budget.

20. In conclusion, the following decisions were taken:

(i) A Committee of Experts on the protocol concerning audiovisual performances will be convened for September 15 and 16, 1997, and an Information Meeting concerning intellectual property in databases will be convened for September 17 and 18, 1997. September 19, 1997, will be reserved for the adoption of the reports of both the Committee of Experts and the Information Meeting.

(ii) The International Bureau will, separately for each of the two subjects, prepare a document on the existing national and regional laws and regulations. Furthermore, the International Bureau will invite the Governments of the Member States of WIPO and the European Community by circular to communicate to it in writing information on the *de facto* situation, particularly contractual practices, existing in their respective countries, as well as any official statistics.

(iii) The number of WIPO Member States for which WIPO will finance the participation in the way described in paragraph 5(a) of document AB/XXX/2 and in paragraph 6(a) of document AB/XXX/3 will be increased by 30 % in respect of each group of countries mentioned therein.

21. The Delegation of Côte d'Ivoire, on behalf of the African Group, requested the following statement to be recorded:

“The African Group wishes to make the following statement, which it requests you to incorporate in the report of the present meeting of the WIPO Governing Bodies.

“The African Group, on the basis of the Resolution adopted at the WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions, which was held in Geneva in December 1996 and which resulted in the adoption of two treaties concerning copyright on the one hand and performances and phonograms on the other;

“- declares that it adheres to the spirit as well as the letter of the Resolution, according to which it is extremely important to ensure an adequate level of protection for performances in the new digital environment, and there is an urgent need to agree on new norms for their adequate legal international protection.

“- emphasizes that the international legal protection of expressions of folklore is an essential matter not only for the countries of the African continent but also for other countries of the world.

“- requests, on the basis of the conclusions and other recommendations that will be adopted at the meeting to be held in Phuket, Thailand, from April 8 to 10, 1997, that reflection may continue on the drafting of an international legal instrument for the protection of expressions of folklore, and also on the working out of a timetable culminating in the adoption of such an instrument.”

ITEM *4bis* OF THE CONSOLIDATED AGENDA:

PROPOSAL FROM THE UNITED STATES OF AMERICA CONCERNING THE
ESTABLISHMENT OF AN *AD HOC* INFORMATION TECHNOLOGIES COMMITTEE
AND PROPOSED DECISIONS CONCERNING SCHEDULING OF MEETINGS OF THIS
AND RELATED COMMITTEES

22. See the report of the session of the WIPO General Assembly (document
WO/GA/XX/3 Rev.).

ITEM *4ter* OF THE CONSOLIDATED AGENDA:

PROPOSAL FROM THE RUSSIAN FEDERATION CONCERNING REPRESENTATION
OF THE CENTRAL AND EAST EUROPEAN REGION IN WIPO

23. See the report of the session of the WIPO General Assembly (document
WO/GA/XX/3 Rev.).

ITEM 5 OF THE CONSOLIDATED AGENDA:

STAFF MATTERS

24. See the report of the session of the WIPO Coordination Committee (document
WO/CC/XXXVIII/2).

ITEM 6 OF THE CONSOLIDATED AGENDA:

ADOPTION OF THE GENERAL REPORT AND OF THE INDIVIDUAL REPORTS OF
THE VARIOUS SESSIONS

*25. This General Report was unanimously
adopted by the Governing Bodies concerned
on March 21, 1997.*

26. Each of the three Governing Bodies unanimously adopted the separate Reports concerning its session, at a separate meeting of the Governing Body concerned on March 21, 1997.

ITEM 7 OF THE CONSOLIDATED AGENDA:

CLOSING OF THE SESSIONS

27. After the usual interventions, the thirtieth series of meetings of the Governing Bodies of WIPO and the Unions administered by it were closed by the Chairman of the WIPO General Assembly.

[Annex follows]

ANNEX

1. The Delegation of Colombia, speaking on behalf of the Latin American and Caribbean Group, stated that on the subject of the Agenda, the GRULAC considered it irrelevant to have discussions on staff matters at this meeting, and therefore, it was inappropriate to include item 5 in the draft agenda. The Delegation further stated that it had repeatedly spoken of its profound dissatisfaction with the flagrant imbalance in the geographical distribution of directorships within the Organization, and pointed out that of the 26 senior directorships (at grade D.1 and D.2), only two were Latin American, and, according to the new proposal, those directorships would increase to 29 without any increase in the number of Latin American citizens in such posts. In spite of the repeated requests from GRULAC to the effect that some balance should be restored to such appointments, there were no proposals written into the present documents that would have the effect of redressing the situation. GRULAC reaffirmed its rejection of the dealings to which the subject had given rise within WIPO. Of the proposals mentioned in item 5 of the draft Agenda, the Delegation wished to make it clear that GRULAC had nothing against the persons proposed for promotion, and that its aim was not to make a move that might be interpreted as seeking to obstruct staff development within WIPO, or to close the route whereby other regions might have their representatives within the Organization. What it was requested, therefore, was to place a matter of principle on record. The spokesman for GRULAC said that the draft program could be approved by a majority but not by consensus, as an entire regional group would be standing aside from the debate. It proposed deferment of consideration of the subject to a later opportunity, at which time, the Director General elect, who undoubtedly would have his own views on the subjects in question, could take part.

2. The Delegation of Côte d'Ivoire, speaking on behalf of the African Group, considered item 5 to be an important matter that warranted examination; the Delegation had confidence in the Director General who had proposed the item concerned and therefore wished that it should remain on the draft agenda.

3. The Delegation of Canada, speaking on behalf of Group B, noted that the agenda item involved two issues, first of all regular salary adjustments, secondly, promotions to management positions at the D1 level. Although these were management positions, they were relatively junior. While appreciative that the Coordination Committee had reached consensus on a candidate to be nominated at the full session of the Governing Bodies as the next Director General, it believed that, in the meantime, WIPO must continue to function effectively. It also noted that it was important that a structure be put in place to support the treaties adopted at the Diplomatic Conference in December. Therefore, Group B supported the African group in maintaining this item on the agenda for discussion at a later time.

4. The Delegation of Sri Lanka, stated in the name of the Asian Group that it too agreed to retain this agenda item as it was for the reasons given by the Delegation of Canada as coordinator for Group B, as well as by Côte d'Ivoire on behalf of the African countries. It fully supported the retention of this item, which should not be considered for deletion.

5. The Delegation of Argentina supported what had been said by the delegate of Colombia, on behalf of GRULAC (and pointed out that there was a national of the African continent on the list and that there was not one national of the Latin American and Caribbean region). It

further stated that GRULAC had expressed its regret regarding the very scant representation of the Latin American and Caribbean region among the directors of the Organization on many previous occasions. In this respect the Delegation endorsed the statement made by the Delegation of Colombia on behalf of GRULAC.

6. The Delegation of Egypt supported the position made by the delegate of Côte d'Ivoire, and said that it was important to take into account the evolution that was taking place within WIPO and asked to maintain this item on the draft agenda.

7. The Delegation of Chile supported the proposal made by the representative of Colombia on behalf of GRULAC, and stated that it did not consider it right, or appropriate to deal with subjects such as this at an extraordinary session of the Governing Bodies. This meeting was convened pursuant to the decision adopted by the Diplomatic Conference last December, its purpose being to deal with the future work on the two subjects of audiovisual fixations and databases. Referring to what was said by the representative of Canada on behalf of Group B, namely that in their opinion, the International Bureau of WIPO, should carry on functioning, the Delegation fully agreed with that statement, but believed that the subject should be considered in a broader context, and recalled in that connection that two important positions within the Organization, those of Legal Counsel and Internal Auditor, had been vacant since the previous year. It mentioned further that there had been competitions for both posts the previous year, that candidates from within the region with good professional qualifications had applied, but that regrettably the competition had subsequently been canceled.

8. The Delegation of Israel expressed its support for the position put forward by the Delegations of Canada and Côte d'Ivoire. It stated that the work of the organization should be continued smoothly and since this had been put on the agenda of the General Assembly, it should be discussed. The Delegation did not agree at this stage, to delete this item from the agenda.

9. The Delegation of Saudi Arabia expressed its confidence in the Director General, Dr. Arpad Bogsch and supported his proposal. It also supported the declaration made by the Coordinator of the Asian Group concerning the maintaining of the agenda item No. 5. He requested that this question be discussed during this session and that the same procedure be followed as before.

10. The Delegation of Algeria also supported the maintaining of item 5 on the agenda. It was important, the Delegation added, that the Organization should be able to continue its work in peace and the tranquillity of the staff constituted an important quality in that respect, that had to be supported. Aware of that fact, the Delegation of Algeria requested that the item concerned remained on the draft agenda and hoped that each delegation would be able to fully express its point of view during the discussions on the various proposals made by the Director General.

11. The Chinese Delegation expressed its concurrence with the statements made by the African group, the Asian group and Group B that item no. 5 on the current agenda should be retained.

12. The Director General said that the declaration of the honorable delegate of Colombia would be clearly reflected in the report.

13. The Delegation of the United Arab Emirates confirmed the importance of agenda item 5 and expressed its support for what was stated by the other Delegations concerning the maintaining of item no. 5.

[List of participants follows]

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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*(dans l'ordre alphabétique des noms français des États
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*(in the alphabetical order of the names in French of the States
with an indication of the Governing Body or Bodies of which the State is a member)*

Références/References

- 1) Assemblée générale de l'OMPI
WIPO General Assembly
- 2) Comité de coordination de l'OMPI
WIPO Coordination Committee
- 3) Assemblée de l'Union de Berne
Berne Union Assembly

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