

WIPO General Assembly

Forty-Eighth (26th Extraordinary) Session Geneva, October 3 to 11, 2016

MATTERS CONCERNING THE CONVENING OF A DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A DESIGN LAW TREATY (DLT)

Document prepared by the Secretariat

1. At its forty-seventh (22nd ordinary) session, held in Geneva from October 5 to 14, 2015, the World Intellectual Property Organization (WIPO) General Assembly agreed the following (see document WO/GA/47/19, paragraph 123)¹:

“That the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

(i) to convene a diplomatic conference for the adoption of a Design Law Treaty at the end of the first half of 2017, only if the discussions on technical assistance and disclosure have been completed during the thirty-fourth and thirty-fifth sessions of the SCT;

(ii) that the text of the basic proposal for the Design Law Treaty should be finalized by the SCT at its thirty-fourth and thirty-fifth sessions;

(iii) that, if a diplomatic conference is convened at the end of the first half of 2017, the date and venue of the diplomatic conference would be decided in a preparatory committee, to be held back-to-back with the thirty-fifth session of the SCT.”

2. Following that session of the WIPO General Assembly, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), at its thirty-fourth

¹ For a detailed narrative of General Assembly sessions dealing with the convening of a diplomatic conference for the adoption of a Design Law Treaty, see document WO/GA/47/8.

session, held in Geneva from November 16 to 18, 2015, continued discussions on the text of a basic proposal for the Design Law Treaty (DLT).

3. The Delegation of Nigeria, on behalf of the African Group, presented a new proposal for Article 3(1)(a)(ix), and the Chair presented a text for a new Article 1 *bis* on General Principles. The Chair concluded that both proposals would be included between square brackets in a revised version of document SCT/33/2, for consideration of the thirty-fifth session of the SCT (see document SCT/34/7, paragraphs 5 to 8).

4. At its thirty-fifth session (April 25 to 27, 2016), the SCT continued the discussions based on document SCT/35/2, containing draft Articles on Industrial Design Law and Practice, including, between square brackets, the new proposal for item (ix) of Article 3(1)(a) of the draft DLT, presented by the African Group at the thirty-fourth session of the SCT, as well as a footnote expressing the different views on that proposal. Document SCT/35/2 also contains, between square brackets, the text presented by the Chair at the thirty-fourth session of the SCT for a new Article 1 *bis* on General Principles, as well as two footnotes. The first footnote indicating that the text of Article 1 *bis* is based on the proposal made by the Chair at the thirty-fourth session of the SCT, as contained in Chair Non-paper No.1, and the second reflecting the different views of delegations on proposed Article 1 *bis* and/or on proposed item (ix) of Article 3(1)(a) of the draft DLT.

5. The SCT worked throughout its thirty-fifth session with the objective to finalize the basic proposal for the DLT as mandated by the WIPO General Assembly decision, with a view to convening a diplomatic conference for the adoption of a DLT at the end of the first half of 2017. To that end, the Chair held informal consultations where he made three suggestions in an attempt to overcome the differences in the various positions. The first suggestion, presented in Chair Non-paper of April 26, 2016, concerned Article 3(2)(b) and a draft agreed statement by the diplomatic conference to that Article. The second, presented in Chair Non-paper on Article 2 of April 27, 2016, suggested new text for Article 1 *bis*, which was renumbered Article 2. The third suggestion, presented in Chair Non-paper of April 27, 2016, concerned both Articles 1 *bis*, renumbered Article 2, and Article 3.

6. At the end of the thirty-fifth session of the SCT, the Chair concluded that a number of delegations were of the opinion that the work of the SCT was sufficient to consider that the basic proposal was finalized. Other delegations considered that the work of the SCT constituted a sufficient ground for finalizing the basic proposal and that a few elements needed further work. Other delegations considered that the work of the SCT was not sufficient to finalize the basic proposal (see document SCT/35/7, paragraph 7).

7. *The WIPO General Assembly is invited:*

(i) to consider the contents of the present document;

(ii) to decide whether to convene a diplomatic conference for the adoption of a Design Law Treaty at the end of the first half of 2017, at a date and venue to be decided by a preparatory committee.

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