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WORLD INTELLECTUAL PROPERTY ORGANIZATION

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## WIPO GENERAL ASSEMBLY WORKING GROUP ON CONSTITUTIONAL REFORM

**Third Session**  
**Geneva, March 6 to 9, 2001**

WIPO COORDINATION COMMITTEE

*Document prepared by the Secretariat*

1. At its previous sessions, the Working Group on Constitutional Reform (“the Working Group”) discussed the role and functions of the Executive Committees of the Paris Union, Berne Union and PCT Union and concluded that these bodies had become, in practice, superfluous (see documents WO/GA/WG-CR/3, paragraphs 41 to 43, WO/GA/WG-CR/2/4 and WO/GA/WG-CR/2/8, paragraphs 35 to 43). The Working Group recognized the desirability of abolishing these Executive Committees in the interest of a more efficient governance structure for the Organization. It also recognized, however, that the Executive Committees of the Paris and Berne Unions provided the formal means by which the composition of the WIPO Coordination Committee was determined (see Article 8(1)(a) of the Convention Establishing the World Intellectual Property Organization (the WIPO Convention)). The abolition of those Executive Committees would thus require a new method of composing the WIPO Coordination Committee to be established. Discussion in the Working Group of possible options for constituting the Coordination Committee led in turn to reflection upon the need for the Coordination Committee itself and the optimal size and functions of the Coordination Committee should its continuance be considered desirable.
2. The present document further explores the range of options that the Working Group may wish to consider in relation to the Coordination Committee.

### The Existing Role and Functions of the Coordination Committee

3. The Coordination Committee was designed to serve two roles. The first role is as an “advisory organ,” in which capacity the Coordination Committee “gives advice to the various organs of the Unions and the Organization on matters of common interest to two or more of the Unions or to one or more of the Unions and the Organization itself, in particular regarding the budget of expenses common to the Unions.”<sup>1</sup> This role is inscribed in Article 8(3)(i) of the WIPO Convention.

4. The second role of the Coordination Committee is as the “executive organ of the General Assembly and the Conference.”<sup>2</sup> In this capacity, the Coordination Committee:

(i) prepares the draft agenda of the General Assembly and the draft agenda and program and budget of the Conference (Article 8(3)(ii) and (iii), WIPO Convention);

(ii) nominates a candidate for appointment to the post of Director General by the General Assembly (Article 8(3)(v), WIPO Convention);

(iii) approves the appointment of the Deputy Directors General (Article 9(7), WIPO Convention);

(iv) approves the staff regulations (Article 9(7), WIPO Convention);

(v) approves agreements and arrangements between the Organization and intergovernmental organizations and international non-governmental organizations (Article 13, WIPO Convention).

### Future Options: Abolition

5. The most radical option in relation to the Coordination Committee that has been discussed in the Wording Group is abolition. This possibility was considered by some delegations to be a natural consequence of the establishment of a unitary Assembly (assuming that a recommendation is made to establish a unitary Assembly (see document A/35/3, paragraph 10)). The existence of a single Assembly competent for all WIPO treaties would, according to this view, remove the need for the Coordination Committee to play an advisory or coordinating role between the various Unions, since those Unions would each share the same governing body. As for the role of the Coordination Committee as an executive organ, it was suggested that the Committee’s functions in this capacity could either be attributed to a specific purpose non-statutory committee, such as the Program and Budget Committee, or to several such committees, which would be established by the unitary Assembly. The status of such a committee or committees as creatures of the Assembly would allow for a more flexible and responsive approach to executive functions.

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<sup>1</sup> “Report on the Work of Main Committee V (World Intellectual Property Organization), *Records of the Intellectual Property Conference of Stockholm* (1967), Volume II, 1233.

<sup>2</sup> *Ibid.*

Future Options: Retention and Modification

6. A second option would be to retain the Coordination Committee, but to modify its composition in consequence of the proposed abolition of the Executive Committees of the Paris and Berne Unions.
7. The various possibilities that exist for constituting the Coordination Committee were explored in a previous document presented to the Working Group (“Executive Committees of the Paris, Berne and PCT Unions and the WIPO Coordination Committee,” document WO/GA/WG-CR/2/4). The pertinent paragraphs of that document are reproduced below:

“The first [possibility for constituting the Coordination Committee] would be to provide that [it] is to be composed of States that are members of the Organization and to establish a simple numerical or quantitative criterion, for example, 30 States or 25% of the total number of members of the Organization. This method of composing the Coordination Committee would respond to the function of that Committee as an executive organ, but not to its function as an advisory organ on matters of common interest to the Organization and the Unions administered by WIPO, since those Unions would not be formally reflected in the membership of the Committee. It is clear from the Records of the 1967 Stockholm Conference that the coordinating advisory function of the Coordination Committee was considered to be fundamental.

“An alternative option for constituting the Coordination Committee would be to provide for its membership to be composed of States which are representative of the membership of the various Unions administered by WIPO and of States that are members of the Organization but not members of any of those Unions. This was the intention of the drafters of Article 8 of the WIPO Convention in providing for the Coordination Committee to be constituted by the members of the Executive Committees of the Paris and Berne Unions (Article 8(1)(a)) and by *ad hoc* members drawn from those States members of WIPO but not of any of the Unions (Article 8(1)(c)).

“Since the Stockholm Diplomatic Conference of 1967, certain treaties have been concluded under the auspices of WIPO which are open to any State that is a member of WIPO, as opposed to being limited to States party to either the Paris Convention or the Berne Convention (for example, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty and the Patent Law Treaty). It may be noted that, at the Stockholm Diplomatic Conference of 1967, the Report of Main Committee V (on the World Intellectual Property Organization) stated, with respect to the composition of the Coordination Committee, that “if the Organization subsequently agrees to administer international agreements unconnected with the Paris and Berne Unions, it will be necessary, where appropriate, to make special provision for the representation on the Coordination Committee of the countries party to those agreements.

“To reflect the view quoted in the preceding paragraph, a general principle might be devised whereby the membership of the Coordination Committee would be established by the WIPO General Assembly in such a way as to reflect fairly the membership of the Organization and of all Unions administered by the Organization. At the same time, to reflect the function of the Committee as an executive organ, a numerical or quantitative limitation on the membership could be established.”

Future Options: Status Quo

8. The possibility obviously exists to retain the status quo in relation to the Coordination Committee, that is, to maintain the existence of the Executive Committees of the Paris and Berne Unions and, thereby, to continue constituting the Coordination Committee as provided at present in the WIPO Convention. The inconveniences of this current system are twofold. First, since each of the Executive Committees of the Paris and Berne Unions is composed of a fraction of the number of members of the corresponding Union, the overall number of members of the Coordination Committee rises with increases in the number of members of the Paris and Berne Unions. At present, the Coordination Committee should be composed of 72 members, which is a number far in excess of the number of members in corresponding executive committees of other international organizations (see document WO/GA/WG-CR/3/INF/2). Ideally, an executive committee should be composed of a number of members that is sufficiently small to facilitate discussion, but sufficiently large to be representative. A second inconvenience of the present constitution of the Coordination Committee is the cumbersome nature of the process for determining members, which involves the continuation of the Executive Committees of the Paris and Berne Unions, which no longer seem to serve any function, and the manipulation of a complicated series of rules.

*9. The Working Group is invited to pronounce itself upon the issues examined in this document.*

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