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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**DIPLOMATIC CONFERENCE
ON THE PROTECTION OF AUDIOVISUAL PERFORMANCES**

Geneva, December 7 to 20, 2000

RULES OF PROCEDURE

as adopted on December 7, 2000, by the Diplomatic Conference

RULES OF PROCEDURE

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CHAPTER I : OBJECTIVE, COMPETENCE, COMPOSITION AND
SECRETARIAT OF THE CONFERENCERule 1 : Objective and Competence of the Conference

(1) The objective of the Diplomatic Conference on the Protection of Audiovisual Performances (hereinafter referred to as "the Conference") is to negotiate and adopt the [Protocol to the WIPO Performances and Phonograms Treaty] [WIPO Treaty on Audiovisual Performances] (hereinafter referred to as "the Instrument").

(2) The Conference, meeting in Plenary, shall be competent to:

(i) adopt the Rules of Procedure of the Conference (hereinafter referred to as "these Rules") and to make any amendments thereto;

(ii) adopt the agenda of the Conference;

(iii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iv) adopt the Instrument;

(v) adopt any recommendation or resolution whose subject matter is germane to the Instrument;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

Rule 2 : Composition of the Conference

(1) The Conference shall consist of:

(i) delegations of the States members of the World Intellectual Property Organization (hereinafter referred to as "the Member Delegations"),

(ii) the special delegation of the European Community (hereinafter referred to as "the Special Delegation"),

(iii) the delegations of States members of the United Nations other than the States members of the World Intellectual Property Organization invited to the Conference as observers (hereinafter referred to as "the Observer Delegations"), and

(iv) representatives of intergovernmental and non-governmental organizations invited to the Conference as observers (hereinafter referred to as "the Observer Organizations").

(2) References in these Rules of Procedure to Member Delegations shall be considered, except as otherwise provided (see Rules 11(2), 33 and 34), as references also to the Special Delegation.

(3) References in these Rules of Procedure to "Delegations" shall be considered as references to the three kinds (Member, Special and Observer) of Delegations but not to Observer Organizations.

Rule 3 : Secretariat of the Conference

(1) The Conference shall have a Secretariat provided by the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the International Bureau" and "WIPO," respectively).

(2) The Director General of WIPO and any official of the International Bureau designated by the Director General of WIPO may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may, at any time, make oral or written statements, observations or suggestions to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

(3) The Director General of WIPO shall, from among the staff of the International Bureau, designate the Secretary of the Conference and a Secretary for each committee and for each working group.

(4) The Secretary of the Conference shall direct the staff required by the Conference.

(5) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents, for the interpretation of oral interventions and for the performance of all other secretariat work required for the Conference.

(6) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all documents of the Conference. The International Bureau shall distribute the final documents of the Conference after the closing of the Conference.

CHAPTER II : REPRESENTATION

Rule 4 : Delegations

(1) Each Delegation shall consist of one or more delegates and may include advisors.

(2) Each Delegation shall have a Head of Delegation and may have a Deputy Head of Delegation.

Rule 5 : Observer Organizations

An Observer Organization may be represented by one or more representatives.

Rule6 : CredentialsandFullPowers

- (1) EachDelegationshallpresentcredentials.
- (2) FullpowersshallberequiredforsigningtheInstrument.Suchpowersmaybe includedinthecredentials.

Rule7 : LettersofAppointment

Therepres entativesofObserverOrganizationsshallpresentaletterorotherdocument appointingthem.

Rule8 : PresentationofCredentials,etc.

ThecredentialsandfullpowersreferredtoinRule6andthelettersorotherdocuments referredtoinRule7shallbepresentedtotheSecretaryoftheConference,preferablynotlater thantwenty-fourhoursaftertheopeningoftheConference.

Rule9 : ExaminationofCredentials,etc.

- (1) TheCredentialsCommitteereferredtoinRule 11shallexaminethecredentials, fullpowers,lettersorotherdocumentsreferredtoinRules 6and7,respectively,andshall reporttotheConference,meetinginPlenary.
- (2) Thedecisiononwhetheracredential,fullpowers,letterorotherdocumentisin ordershallbemadebytheConference,meetinginPlenary.Suchdecisionshallbemadeas soonaspossibleandinanycasebeforetheadoptionoftheInstrument.

Rule10 : ProvisionalParticipation

Pendingadecisionupontheircredentials,lettersorotherdocumentsofappointment, DelegationsandObserverOrganizationsshallbeentitledtoparticipateprovisionallyinthe deliberationsoftheConferenceasprovidedintheseRules.

CHAPTERIII :COMMITTEESANDWORKINGGROUPS

Rule11 : CredentialsCommittee

- (1) TheConferenceshallhave aCredentialsCommittee.
- (2) TheCredentialsCommitteeshallconsistofsevenMemberDelegationselectedby theConference,meetinginPlenary,fromamongtheMemberDelegations,exceptthatthe SpecialDelegationshallnotbeeligibleformembershipintheCredentialsCommittee.

Rule 12: Main Committees and Their Working Groups

(1) The Conference shall have two Main Committees. Main Committee I shall be responsible for proposing for adoption by the Conference, meeting in Plenary, the substantive law provisions of the Instrument and any recommendation, resolution or agreed statement referred to in Rule 1(2)(v) and (vi). Main Committee II shall be responsible for proposing for adoption by the Conference, meeting in Plenary, any administrative and the final clauses of the Instrument.

(2) Each Main Committee shall consist of all the Member Delegations.

(3) Each Main Committee may create working groups. In creating a working group, the Main Committee creating it shall specify the tasks of the Working Group, decide on the number of the members of the Working Group and elect such members from among the Member Delegations.

Rule 13: Drafting Committee

(1) The Conference shall have a Drafting Committee.

(2) The Drafting Committee shall consist of 14 elected members and two *ex officio* members. The elected members shall be elected by the Conference, meeting in Plenary, from among the Member Delegations. The Presidents of the two Main Committees shall be the *ex officio* members.

(3) The Drafting Committee shall prepare drafts and give advice on drafting as requested by either Main Committee. The Drafting Committee shall not alter the substance of the texts submitted to it. It shall coordinate and review the drafting of all texts submitted to it by the Main Committees, and it shall submit the texts so reviewed for final approval to the competent Main Committee.

Rule 14: Steering Committee

(1) The Conference shall have a Steering Committee.

(2) The Steering Committee shall consist of the President and Vice-Presidents of the Conference, the President of the Credentials Committee, the Presidents of the Main Committees and the President of the Drafting Committee. The meetings of the Steering Committee shall be presided over by the President of the Conference.

(3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including, in particular, decisions on the coordination of the meetings of the Plenary, the committees and the working groups.

(4) The Steering Committee shall propose the text of any final act of the Conference (see Rule 1(2)(vii)), for adoption by the Conference, meeting in Plenary.

CHAPTER IV : OFFICERS

Rule 15 : Officers and their Election ; Precedence Among Vice-Presidents

- (1) The Conference shall have a President and 10 Vice-Presidents.
- (2) The Credentials Committee, each of the two Main Committees and the Drafting Committee shall have a President and two Vice-Presidents.
- (3) Any Working Group shall have a President and two Vice -Presidents.
- (4) The Conference, meeting in Plenary, and presided over by the Director General of WIPO, shall elect its President, and, then, presided over by its President shall elect its Vice-Presidents and the officers of the Credentials Committee, the Main Committees and the Drafting Committee.
- (5) The officers of a Working Group shall be elected by the Main Committee that establishes that Working Group.
- (6) Precedence among the Vice-Presidents of a given body (the Conference, the Credentials Committee, the two Main Committees, any Working Group, the Drafting Committee) shall be determined by the place occupied by the name of the State of each of them in the list of Member Delegations established in the alphabetical order of the names of the States in French, beginning with the Member Delegation whose names shall have been drawn by lot by the President of the Conference. The Vice-President of a given body who has precedence over all the other Vice-Presidents of that body shall be called "the ranking" Vice-President of that body.

Rule 16 : Acting President

- (1) If any President is absent from a meeting, the meeting shall be presided over, as Acting President, by the ranking Vice-President of that body.
- (2) If all the officers of a body are absent from any meeting of the body concerned, that body shall elect an Acting President.

Rule 17 : Replacement of President

If any President becomes unable to perform his or her functions for the remainder of the duration of the Conference, a new President shall be elected.

Rule 18 : Vote by the Presiding Officer

- (1) No President, whether elected as such or acting (hereinafter referred to as "the Presiding Officer"), shall take part in voting. Another member of his or her Delegation may vote for that Delegation.
- (2) Where the Presiding Officer is the only member of his or her Delegation, he or she may vote, but only in the last place.

CHAPTER V : CONDUCT OF BUSINESS

Rule 19: Quorum

(1) A quorum shall be required in the Conference, meeting in Plenary; it shall, subject to paragraph (3), be constituted by one-half of the Member Delegations represented at the Conference.

(2) A quorum shall be required for the meetings of each Committee (the Credentials Committee, the two Main Committees, the Drafting Committee and the Steering Committee) and any working group; it shall be constituted by one-half of the members of the Committee or working group.

(3) The quorum at the time of the adoption of the Instrument by the Conference, meeting in Plenary, shall be constituted by one-half of the Member Delegations whose credentials were found in order by the Conference meeting in Plenary.

Rule 20: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon the Presiding Officer elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. The Presiding Officer shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the body over which he or she presides the limitation of time to be allowed to each speaker, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers or the closure of the debate. The Presiding Officer may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected.

Rule 21: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 22 and 23, the Presiding Officer shall call upon persons in the order in which they ask for the floor.

(2) The Presiding Officer may call a speaker to order if the remarks of the speaker are not relevant to the subject under discussion.

Rule 22 : Precedence in Receiving the Floor

- (1) Member Delegations asking for the floor are generally given precedence over Observer Delegations asking for the floor, and Member Delegations and Observer Delegations are generally given precedence over Observer Organizations.
- (2) The President of a Committee or working group may be given precedence during discussions relating to the work of the Committee or working group concerned.
- (3) The Director General of WIPO or his representative may be given precedence for making statements, observations or suggestions.

Rule 23 : Points of Order

- (1) During the discussion of any matter, any Member Delegation may rise to a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Member Delegation may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless the appeal is approved.
- (2) The Member Delegation that has risen to a point of order under paragraph (1) may not speak on the substance of the matter under discussion.

Rule 24 : Limit on Speeches

In any meeting, the Presiding Officer may decide to limit the time allowed to each speaker and the number of times each Delegation and Observer Organization may speak on any question. When the debate is limited and a Delegation or Observer Organization has used up its allotted time, the Presiding Officer shall call it to order without delay.

Rule 25 : Closing of List of Speakers

- (1) During the discussion of any given question, the Presiding Officer may announce the list of participants who have asked for the floor and decide to close the list to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after the list of speakers has been closed, makes it desirable.
- (2) Any decision made by the Presiding Officer under paragraph (1) may be the subject of an appeal under Rule 23.

Rule 26 : Adjournment or Closure of Debate

Any Member Delegation may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has asked for the floor. In addition to the proposer of the motion to adjourn or close the debate, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

Rule27 : SuspensionorAdjournmentoftheMeeting

Duringthediscussionofanymatter,anyMemberDelegationmaymovethesuspension ortheadjournmentofthemeeting.Suchmotionsshallnotbedebated,butshallimmediately beputtothevote.

Rule28 : OrderofProceduralMotions ;ContentofInterventionsonSuchMotions

(1) SubjecttoRule23,thefollowingmotionsshallhaveprecedenceinthefollowing orderoveralltherproposalsormotionsbeforethemeeting:

- (i) tosuspendthemeeting,
- (ii) toadjournthemeeting,
- (iii) toadjournthedebateonthequestionunderdiscussion,
- (iv) toclosethedebateonthequestionunderdiscussion.

(2) AnyMemberDelegationthathasbeengiv entheflooronaproceduralmotion may speakonthatmotiononly,andmaynotspeakonthesubstanceofthematterunder discussion.

Rule29 : BasicProposal ;ProposalsforAmendment

(1) (a) DocumentsIAVP/DC/3andIAVP/DC/4shallconstitutethebasisof the discussionsintheConference,andthetextofthedraftInstrumentcontainedinthose documentsshallconstitutethe“BasicProposal.”

(b) Where,foranygivenprovisionofthedraftInstrument,therearetwoorthree alternativesintheBasicProposal,consistingofeithertwoorthreetexts,oroneortwotexts andanalternativethatthereshouldbenosuchprovision,thealternativesshallbedesignated withthelettersA,Band,whereapplicable,C,andshallhaveequalstatus.Discussionsshall takeplacesimultaneouslyonthealternativesand,ifvotingisnecessaryandthereisno consensusonwhichalternativeshouldbeputtothevotefirst,eachMemberDelegationshall beinvitedtoindicateitspreferenceamongthetwoorthreealternatives.Thealternative supportedbymoreMemberDelegationsthantheotheroneortwoalternativesshallbeputto thevotefirst.

(c) WherevertheBasicProposalcontainswordswithinsquarebrackets,onlythe textthat isnotwithinsquarebracketsshallberegardedaspartoftheBasicProposal,whereas wordswithinsquarebracketsshallbetreatedasaproposalforamendmentifpresentedas providedinparagraph (2).

(2) AnyMemberDelegationmayproposeamendmentstotheBasicProposal.

(3) Proposalsforamendmentshall,asarule,besubmittedinwritingandhandedto theSecretaryofthebodyconcerned.TheSecretariatshalldistributecopiestotheDelegations andtheObserverOrganizations.Asageneralrule,aproposalforamendmentcannotbetaken intoconsiderationanddiscussedorputtothevoteatameetingunlesscopiesofithavebeen distributednotlaterthanthreehoursbeforeitistakenintoconsideration.ThePresiding

Officer may, however, permit the taking into consideration and discussion of a proposal for amendment even though copies of it have not been distributed or have been distributed less than three hours before it is taken into consideration.

Rule 30 : Decisions on the Competence of the Conference

(1) If a Member Delegation moves that a duly seconded proposal should not be taken into consideration by the Conference because it is outside the latter's competence, that motion shall be decided upon by the Conference, meeting in Plenary, before the proposal is taken into consideration.

(2) If the motion referred to in paragraph (1), above, is made in a body other than the Conference, meeting in Plenary, it shall be referred to the Conference, meeting in Plenary, for a ruling.

Rule 31 : Withdrawal of Procedural Motions and Proposals for Amendment

Any procedural motion and any proposal for amendment may be withdrawn by the Member Delegation that has made it, at any time before voting on it has commenced, provided that no amendment to it has been proposed by another Member Delegation. Any motion or proposal thus withdrawn may be reintroduced by any other Member Delegation.

Rule 32 : Reconsideration of Matters Decided

When any matter has been decided by a body, it may not be reconsidered by that body unless so decided by the majority applicable under Rule 34(2)(ii). In addition to the proposer of the motion to reconsider, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the motions shall immediately be put to the vote.

CHAPTER VI : VOTING

Rule 33 : Right to Vote

(1) Each Member Delegation shall have the right to vote. A Member Delegation shall have one vote, may represent itself only and may vote in its name only.

(2) The Special Delegation has no right to vote and, for the purposes of paragraph (1) of this Rule and Rule 34, the Special Delegation is not covered by the term "Member Delegations."

(3) The Special Delegation may, under the authority of the European Community, exercise the right to vote of the Member States of the European Community which are represented at the Diplomatic Conference, provided that

(i) the Special Delegation shall not exercise the right to vote of the Member States of the European Community if the Member States exercise their right to vote and vice versa, and

(ii) thenumberofvotescastbytheSpecialDelegationshallinnocaseexceedthe numberofMemberStatesoftheEuropeanCommunitythatarerepresentedattheDiplomatic Conferenceandthatarepresentatantitledtoparticipateinthevote.

Rule34 : RequiredMajorities

- (1) Alldecisionsofallbodiesshallbemadeasfaraspossiblebyconsensus.
- (2) Ifitisnotpossibletoattainconsensus,thefollowingdecisionsshallrequirea majorityoftwo-thirdsoftheMemberDelegationspresentandvoting:
 - (i) adoptionbytheConference,meetinginPlenary,oftheseRules,and,once adopted,anyamendmenttothem,
 - (ii) decisionbyanyofthebodiestoreconsider,underRule32,amatterdecided,
 - (iii) adoptionbytheConference,meetinginPlenary,oftheInstrument,

whereasallotherdecisionsofallbodiesshallrequireasimplemajorityoftheMember Delegationspresentandvoting.

(3) “Voting”meanscastinganaffirmativeornegativevote ;expressabstentionor non-votingshallnotbecounted.

Rule35 : RequirementofSeconding ;MethodofVoting

- (1) AnyproposalforamendmentmadebyaMemberDelegationshallbeputtoavote onlyifsecondedbyatleastoneotherMemberDelegation.
- (2) VotingonanyquestionshallbebyshowofhandsunlessaMemberDelegation, secondedbyatleastoneotherMemberDelegation,requestsaroll-call,inwhichcaseitshall bebyroll-call.TherollshallbecalledinthealphabeticalorderofthenamesinFrenchofthe States,beginningwiththeMemberDelegationwhosenameshallhavebeendrawnbylotby thePresidingOfficer.

Rule36 : Conduct DuringVoting

- (1) AfterthePresidingOfficerhasannouncedthebeginningofvoting,thevoting shallnotbeinterruptedexceptonapointoforderconcerningtheactualconductofthevoting.
- (2) ThePresidingOfficermaypermitaMemberDelegationtoexplainitsvoteorits abstention,eitherbeforeorafterthevoting.

Rule37 : DivisionofProposals

AnyMember Delegationmaymove thatpartsoftheBasicProposalorofanyproposal foramendmentbevoteduponseparately.Iftherequestfordivisionisobjectedto,themotion fordivisionshallbeputtoavote.Inadditiontothe proposerofthemotionfordivision, permissiontospeakonthatmotionshallbegivenonlytooneMemberDelegationseconding

and two Member Delegations opposing it. If the motion for division is carried, all parts of the Basic Proposal or of the proposal for amendment that have been separately approved shall again be put to the vote, together, as a whole. If all operative parts of the Basic Proposal or of the proposal for amendment have been rejected, the Basic Proposal or the proposal for amendments shall be considered rejected as a whole.

Rule 38: Voting on Proposals for Amendment

(1) Any proposal for amendments shall be voted upon before the text to which it relates is voted upon.

(2) Proposals for amendment relating to the same text shall be put to the vote in the order of their substantive remoteness from the said text, the most remote being put to the vote first and the least remote being put to the vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such other proposal or texts shall not be put to the vote.

(3) If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to the vote.

(4) Any proposal the purpose of which is to add to or delete from a text shall be considered a proposal for amendment.

Rule 39: Voting on Proposals for Amendment on the Same Question

Subject to Rule 38, where two or more proposals relate to the same question, they shall be put to the vote in the order in which they have been submitted, unless the body concerned decides on a different order.

Rule 40: Equally Divided Votes

(1) Subject to paragraph (2), if a vote is equally divided on a matter that calls only for a simple majority, the proposal shall be considered rejected.

(2) If a vote is equally divided on a proposal for electing a given person to a given position as officer and the nomination is maintained, the votes shall be repeated, until either that nomination is adopted or rejected or another person is selected for the position in question.

CHAPTER VII : LANGUAGES AND MINUTES

Rule 41 : Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any of the bodies shall be in Arabic, Chinese, English, French, Russian or Spanish, and interpretation shall be provided by the Secretariat into the other five languages.

(2) Any of the Committees and any working group may, if none of its members objects, decide to dispense with interpretation or to limit interpretation to some only of the languages that are referred to in paragraph (1).

Rule 42 : Summary Minutes

(1) Provisional summary minutes of the meetings of the Conference, meeting in Plenary, and of the Main Committees shall be drawn up by the International Bureau and shall be made available as soon as possible after the closing of the Conference to all speakers, who shall, within two months after the minutes have been made available, inform the International Bureau of any suggestions for changes in the minutes of their own interventions.

(2) The final summary minutes shall be published in due course by the International Bureau.

Rule 43 : Languages of Documents and Summary Minutes

(1) Any written proposal shall be presented to the Secretariat in Arabic, Chinese, English, French, Russian or Spanish. Such proposal shall be distributed by the Secretariat in Arabic, Chinese, English, French, Russian and Spanish.

(2) Reports of the Committees and any working group shall be distributed in Arabic, Chinese, English, French, Russian and Spanish. Information documents of the Secretariat shall be distributed in English and French ; and, whenever practicable, also in Arabic, Chinese, Russian and Spanish.

(3) (a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English, French or Spanish; if the speaker has used another language, the interventions shall be rendered in English or French at the choice of the International Bureau.

(b) The final summary minutes shall be made available in English and French ; and, whenever practicable, also in Arabic, Chinese, Russian and Spanish.

CHAPTER VIII : OPEN AND CLOSED MEETINGS

Rule 44 : Meetings of the Conference and of the Main Committees

The meetings of the Conference, meeting in Plenary, and of the Main Committees shall be open to the public unless the Conference, meeting in Plenary, or the interested Main Committee, decides otherwise.

Rule 45 : Meetings of Other Committees and of Working Groups

The meetings of the Credentials Committee, the Drafting Committee, the Steering Committee and any working group shall be open only to the members of the Committee or the working group concerned and to the Secretariat.

CHAPTER IX : OBSERVER DELEGATIONS AND OBSERVER ORGANIZATIONS

Rule 46 : Status of Observers

(1) Observer Delegations may attend, and make oral statements in, the Plenary meetings of the Conference and the meetings of the Main Committees.

(2) Observer Organizations may attend the Plenary meetings of the Conference and the meetings of the Main Committees. Upon the invitation of the Presiding Officer, they may make oral statements in those meetings on questions within the scope of their activities.

(3) Written statements submitted by Observer Delegations or by Observer Organizations on subjects for which they have a special competence and which are related to the work of the Conference shall be distributed by the Secretariat to the participants in the quantities and in the languages in which the written statements were made available to it.

CHAPTER X : AMENDMENTS TO THE RULES OF PROCEDURE

Rule 47 : Possibility of Amending the Rules of Procedure

With the exception of the present Rule, these Rules may be amended by the Conference, meeting in Plenary.

CHAPTER XI : FINAL ACT

Rule 48 : Signing of the Final Act

If a final act is adopted, it shall be open for signature by any Delegation.

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