

WIPO



A/42/4

ORIGINAL: English

DATE: July 31, 2006

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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ASSEMBLIES OF THE MEMBER STATES OF WIPO

Forty-Second Series of Meetings Geneva, September 25 to October 3, 2006

UPDATE ON CONSTITUTIONAL REFORM

Document prepared by the Secretariat

1. The Member States of WIPO have, in recent years, considered a series of policies which ultimately required, for their implementation, amendment of the Convention Establishing the World Intellectual Property Organization (the WIPO Convention) and some of the other treaties administered by WIPO. These policies relate to the nomination and appointment of Directors General, the unitary contribution system and changes in contribution classes, and to the simplification and rationalization of the governance structure of WIPO.

Nomination and Appointment of Directors General

2. Regarding the nomination and appointment of Directors General, the WIPO General Assembly, at its twenty-third (10th extraordinary) session from September 7 to 15, 1998, acting upon the recommendation of the WIPO Coordination Committee, adopted a policy that limits the number of mandates of Directors General to two fixed terms of six years each, and decided that the WIPO Convention should be amended accordingly (document WO/GA/23/7, paragraph 22).

3. Subsequently, the Assemblies of the Paris Union and the Berne Union and the WIPO Conference unanimously adopted on September 24, 1999, an amendment to Article 9(3) of the WIPO Convention, as described below (document A/34/16, paragraph 148).

4. The present text of Article 9(3) of the WIPO Convention provides as follows:

“The Director General shall be appointed for a fixed term, which shall be not less than six years. He shall be eligible for reappointment for fixed terms. The periods of the initial appointment and possible subsequent appointments, as well as all other conditions of the appointment, shall be fixed by the General Assembly.”

5. The text of the adopted amendment to Article 9(3) reads as follows:

“The Director General shall be appointed for a fixed term of six years. He shall be eligible for reappointment only for one further fixed term of six years. All other conditions of the appointment shall be fixed by the General Assembly.”

6. In accordance with Article 17(3) of the WIPO Convention, the said amendment will enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General of WIPO from three-fourths of the States Members of WIPO at the time the Conference adopted the amendment.

7. At this date, 46 notifications of acceptance have been received by the Director General, out of the 129 acceptances required for the entry into force of the amendment described in the preceding paragraphs.

The Recommendations of the WIPO Working Group on Constitutional Reform

8. At their meeting in September 2002, the Assemblies of the Member States of WIPO adopted the three recommendations submitted to them by the WIPO Working Group on Constitutional Reform. The three recommendations are: (i) the abolition of the WIPO Conference; (ii) the formalization in the treaties of the unitary contribution system and the changes in contribution classes that have been practiced since 1994; and (iii) a change in the periodicity of the ordinary sessions of the WIPO General Assembly and the other Assemblies of the Unions administered by WIPO, from once every two years to once every year (document A/37/14, paragraphs 291 to 301).

9. In order to implement the decision of the Assemblies in respect of the three recommendations mentioned in the preceding paragraph, several of the treaties administered by WIPO needed to be amended. Therefore, the WIPO Conference and the competent Assemblies of certain Unions administered by WIPO unanimously adopted on October 1, 2003, amendments to the WIPO Convention, as well as to other WIPO-administered treaties, namely the Paris Convention for the Protection of Industrial Property (the Paris Convention), the Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention), the Madrid Agreement Concerning the International Registration of Marks (the Madrid Agreement), the Hague Agreement Concerning the International Deposit of Industrial Designs (the Hague Agreement), the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration of Marks (the Nice Agreement), the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (the Lisbon Agreement), the Locarno Agreement Establishing an International Classification for Industrial Designs (the Locarno Agreement), the Patent Cooperation Treaty (PCT), the Strasbourg Agreement Concerning the International Patent Classification (the Strasbourg Agreement), the Vienna

Agreement Establishing an International Classification of the Figurative Elements of Marks (the Vienna Agreement) and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (the Budapest Treaty) (document A/39/15, paragraphs 166 and 167).

10. In accordance with the relevant provisions of the WIPO-administered treaties, the said amendments will enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General of WIPO from three-fourths of the States Members of WIPO and/or the relevant Assemblies at the time the Conference and the competent Assemblies adopted the amendments.

11. At this date, eight notifications of acceptance have been received, out of the 135 notifications of acceptance required for the entry into force of the amendments described in the preceding paragraphs.

12. The Assemblies of the Member States of WIPO and the Unions administered by WIPO, each as far as it is concerned, are invited to take note of the contents of this document.

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