

**International
Labour
Organization**

**United Nations
Educational, Scientific
and Cultural Organization**

**World Intellectual
Property
Organization**

ILO - Geneva

UNESCO - Paris

WIPO - Geneva

ILO/UNESCO/WIPO/ICR.20/7

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**INTERNATIONAL CONVENTION FOR THE PROTECTION
OF PERFORMERS, PRODUCERS OF PHONOGRAMS
AND BROADCASTING ORGANIZATIONS
(ROME CONVENTION, 1961)**

**INTERGOVERNMENTAL COMMITTEE
Twentieth Ordinary Session**

Geneva, September 7 to 9, 2009

**PROPOSAL FOR AMENDMENT OF RULE 11
OF THE RULES OF PROCEDURE**

Memorandum prepared by the Secretariat

Item 9 on the provisional agenda

1. It is recalled that the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), hereinafter referred to as the “Committee” convened in accordance with Article 32.6¹ of the Convention and Rule 11 of the Rules of Procedure of the Committee, held

¹ 32.6: Meetings of the Committee, which shall be convened whenever a majority of its members deems it necessary, shall be held successively at the headquarters of the International Labour Office, the United Nations Educational, Scientific and Cultural Organization and the Bureau of the International Union for the Protection of Literary and Artistic Works.

its eighteenth Ordinary Session at the International Labour Office (ILO) in Geneva from June 27 to 28, 2001.

2. During the eighteenth session, the Chairperson invited the delegations' views on whether the two-year cycle of the Committee's sessions should be maintained or modified.

3. Delegations agreed that the periodicity of sessions had to be adapted to developments affecting the Rome Convention's legal framework.

4. Following the discussion, the Chairperson suggested to the Committee the suspension of Rule 11.

5. The Committee decided to suspend Rule 11 and to convene the nineteenth session in 2005. The Committee also decided that the agenda of the nineteenth session would include an item on the amendment of Rule 11.

6. At the nineteenth session of the Committee which took place at the Headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris from June 27 to 28, 2005, the issue was discussed on the basis of a Memorandum, prepared by the Secretariat in which the following alternative proposals were made:

- (i) to decrease the frequency of its sessions and to amend Rule 11 of its Rules of Procedure to read as follows:

Alternative A: "the Committee shall meet in ordinary session every three years"

Alternative B: "The Committee shall meet in ordinary session every four years";
or

- (ii) to postpone its sessions *sine die*:

Alternative C: "The Committee shall meet at any time at the request of the majority of its members" (similar to Rule 12 of the Rules of Procedure concerning the Committee's extraordinary sessions, and in accordance with article 32.6 of the Rome Convention).

7. It is recalled that Article 32.6 of the Convention provides that meetings of the Committee shall be convened whenever a majority of its members deems it necessary. Rule 11 of the Rules of Procedure of the Committee provides that "the Committee shall meet in ordinary session once in each odd-numbered calendar year". It should also be recalled that in accordance with Rule 35(1) of the Rules of Procedure the Committee may amend its Rules of Procedure. Thus, the Committee may decide to modify the frequency of the sessions or to suspend its meetings *sine die*.

8. During the discussions that took place at the nineteenth session several delegations expressed flexibility and willingness to align to a consensus. While most delegations that took the floor supported Alternative C, support was also expressed for Alternatives A and B. After informal consultations, the Committee decided unanimously to suspend Rule 11 of the Rules of Procedure, to hold the twentieth ordinary session of the Committee in 2009 and to retain an item on Rule 11 of the Rules of Procedure on its agenda.

9. The frequency of future meetings of the Committee must be seen in the context of the discussions regarding the future of the Rome Convention, which is item 8 on the agenda of the twentieth session of the Committee. As described in document ILO/UNESCO/WIPO/ICR.20/6 it is at present very difficult to foresee how the ongoing discussions regarding the protection of audiovisual performers and broadcasting organizations will evolve, and within which timeframes. It would not appear to be a reasonable use of resources to convene the Committee for another ordinary session if there would be no substantive developments to discuss. It must, however, be noted that the Rome Convention is still an active international legal instrument which in the past years had enjoyed a significant number of new adhesions, and the Committee should therefore not fall into oblivion.

10. Hence, the Secretariat proposes that the Committee:

recalls

- that according to Rule 12 of its Rules of Procedure, the Committee shall meet in extraordinary session at the request of the majority of the members of the Committee;

and

decides

- to suspend Rule 11 of its Rules of Procedure according to which the Committee shall meet in ordinary session once in each odd-numbered calendar year;
- to request the Secretariat to convene the next ordinary session of the Committee not later than a year after any decisive new development regarding the protection of the rights of performers, producers of phonograms and broadcasting organizations has taken place, such as the adoption or revision of one or more international treaties in the area; and
- to retain an item on Rule 11 of the Rules of Procedure on the agenda of the next session of the Committee

11. It is recalled that according to Rule 35(2) of the Rules of Procedure, any amendments shall enter into force after the conclusion of the session at which it was adopted, unless the Committee unanimously decides otherwise.

12. Rule 11 and Rule 12 are annexed to this document.

[Annex I follows]

ANNEX I

RULES OF PROCEDURE OF THE INTERGOVERNMENTAL COMMITTEE

Established under article 32 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, done at Rome on 26 October 1961
(adopted by the Committee at its fourth ordinary session)

IV. SESSIONS OF THE COMMITTEE

Rule 11 - Ordinary sessions

The Committee shall meet in ordinary session once in each odd-numbered calendar year.

Rule 12 - Extraordinary sessions

The Committee shall meet in an extraordinary session at the request of the majority of the members of the Committee.

[End of Annex I and of document]