

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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PROVISIONAL COMMITTEE ON PROPOSALS RELATED TO A WIPO DEVELOPMENT AGENDA

Fourth Session
Geneva, June 11 to 15, 2007

PROPOSAL BY COLOMBIA

Document prepared by the Secretariat

1. In a communication dated May 18, 2007, the International Bureau received a proposal from Colombia for consideration by Member States at the Provisional Committee on Proposals Related to a WIPO Development Agenda, to be held in Geneva from June 11 to 15, 2007.
2. The said proposal is annexed to this document.

3. The PCDA is invited to note the contents of the attached proposal from Colombia.

[Annex follows]

ANNEX



MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES
GINEBRA

MPC N°654



NON OFFICIAL TRASLATION

Geneva, May 18, 2007

Mr. Ambassador:

I have the pleasure to address to Your Excellency in the opportunity of highlighting your remarkable work as Chair of the Third Session of Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA), which took place the past February 19 to 23. Due to your active and pragmatic work it was possible to properly reduce the first forty (40) proposals of the Development Agenda, collecting important elements for our countries.

As you will remember in this third session of PCDA, our country stated concerns regarding the proposal related with the Public Domain Issue and with the way in which WIPO could tackle this issue, in view of that it was not possible to reach a consensus about these proposals and the reserve of Colombia was established in the summary that you made for that third session. It is strange for the intellectual property to talk about protection for the public domain, as it is build precisely with the knowledge that does not have or has lost its protection. The work of WIPO is not the diffusion of the creations within the public domain. On the contrary, its function is to disclose the protection to the Copyright and Related Rights, which is not present in the works that have passed to the public domain.

To your Excellency
Mr Ambassador C. Trevor Clarke
Permanent Representative of Barbados
Geneva.



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After having heard the interventions from the different delegates and from Non Governmental Organizations, we found that the concerns of those who supported these proposals on public domain are related with two essential points in the Copyright field, i.e. the term of protection and the technological measures of protection. The first of these concerns is not possible to tackle taking into consideration that it is a sovereign decision of the States to establish the terms of protection to be granted to the works protected by copyright. Berne Convention establishes a minimum term of protection and based on that the States have the freedom to establish a legislation more advantageous for themselves within their territories. With respect to the second concern, the Government of Colombia would like to present to the Member States, through you, and regarding the fourth session of the PCDA, the following proposal that would replace the second paragraph of Cluster B of the proposals resulting from the third session and proposals 23 and 32 of Annex B related with the Public Domain in order to reach a consensus in this issue. The following are the terms of our proposal:

"To guarantee that the countries do not consider as an infringement the action of circumventing a technological measure intended to protect the access to a work, performance or phonogram that is within the public domain"

Additionally, as this proposal only solves the concerns regarding the Public Domain in the Copyright field, we would like also to propose an alternative wording to proposal 41 of Annex B which tackle the Industrial Property field, in the following terms:

"To contribute effectively to individual nation's self-reliance by mechanisms which facilitate the access to data bases on the information contained in foreign patents or patent applications"



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We are firmly convinced that these two proposals state specific activities that will allow that WIPO could, within its scope of action, make an important contribution in the use of the works or inventions that are into the public domain.

We appreciate, Mr. Ambassador, to make known these proposals from the Government of Colombia to the Member States of WIPO in order to seek a way to reach a consensus in this issue. We are sure that with these proposals we are providing proper tools to obtain an adequate outcome in this Provisional Committee that would be welcome in the next Assemblies of the WIPO this year.

I avail myself of this opportunity to reiterate to Your Excellency the assurances of my highest consideration.


CLEMENCIA FORERO UCROS

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