

# WIPO



AB/XXX/3

ORIGINAL: English

DATE: January 20, 1997

**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **GOVERNING BODIES OF WIPO AND THE UNIONS ADMINISTERED BY WIPO**

**Thirtieth Series of Meetings  
Geneva, March 20 and 21, 1997**

**PREPARATORY WORK ON A TREATY CONCERNING INTELLECTUAL PROPERTY  
IN DATABASES**

*Memorandum of the Director General*

1. The WIPO Diplomatic Conference, held in Geneva in December 1996 on Certain Copyright and Neighboring Rights Questions (hereinafter referred to as “the 1996 Diplomatic Conference”) had three draft treaties on its agenda. Whereas two of them were adopted, one of them, a proposed treaty on intellectual property in databases—hereinafter referred to as “the Database Treaty”—was not considered (and not adopted) by the Diplomatic Conference.

2. However, as can be seen from the Recommendation adopted by the Diplomatic Conference on that matter (quoted in the next paragraph), the Delegations at the Diplomatic Conference did not wish to abandon the plan that, under the aegis of WIPO, a Database Treaty be eventually concluded.

3. The full text of the Recommendation is as follows:

“The Delegations participating in the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions in Geneva,

*Recognizing* that databases are a vital element in the development of a global information infrastructure;

*Conscious* of the importance of encouraging further development of databases;

*Aware* of the need to strike a balance between the interests of the producers of databases in protection from unfair copying and the interests of users in having appropriate access to the benefits of a global information infrastructure;

*Expressing interest* in examining further the possible implications and benefits of a *sui generis* system of protection of databases at the international level;

*Noting* that a treaty on such a *sui generis* system was not negotiated or adopted at the Conference;

*Recommend* the convocation of an extraordinary session of the competent WIPO Governing Bodies during the first quarter of 1997 to decide on the schedule of further preparatory work on a Treaty on Intellectual Property in Respect of Databases.”

4. The present memorandum is prepared for the extraordinary session of the competent WIPO Governing Bodies, mentioned in the last paragraph of the above-quoted Recommendation.
5. Although the said Recommendation does not speak of a diplomatic conference, it does speak of a new treaty, and the establishment of such a treaty—as the establishment of any treaty—requires the holding of a diplomatic conference. Whether such a diplomatic conference would be the same as the diplomatic conference on the Audiovisual Protocol (see document AB/XXX/2) is an open question. The Resolution on the Audiovisual Protocol says that that Protocol should be adopted not later than in 1998, while the Recommendation on the Database Treaty sets no time limit for the adoption of that Treaty. Naturally, if the preparatory work on the said Treaty could be completed at about the same time as the preparatory work on the said Protocol, the two—that is, the Audiovisual Protocol and the Database Treaty—could be adopted in one and the same diplomatic conference. This would be obviously more economical for both the participants and WIPO than two diplomatic conferences at different times.
6. The following tentative schedule is proposed for the preparatory work:
  - (a) a Committee of Experts would be convened by WIPO in Geneva for September 10, 11 and (for the adoption of the report) 12, 1997, in order to consider a first draft of the Database Treaty; that draft, accompanied by explanatory notes, would be prepared by the International Bureau taking into account any written proposals of governments or the European Community, which proposals the International Bureau would invite in writing by the end of March 1997, with a request for reply by the end of May 1997; all States members of WIPO and the European Community would be invited, and the interested intergovernmental and non-governmental organizations would be invited as observers; the International Bureau would finance the participation of one government-designated representative from each of 38 countries: ten developing countries from Africa, ten developing countries from Asia, ten developing countries from Latin America and the Caribbean, China and seven “transition” countries from Eastern Europe and Central Asia; the selection of the countries would be made by the International Bureau after consultation with the coordinators of the interested groups of countries; the cost of financing the participation of 38 persons and the cost of interpretation in six languages in this session of the Committee of Experts is estimated to be around 280,000 francs; the needed amount would be covered, to the extent possible, from economies made in

the budget for the current (1996-97) biennium; otherwise, from the budget item "Miscellaneous and Unforeseen" or the reserve funds;\*

(b) the results of the above mentioned Committee of Experts would be reported to and considered by the next ordinary session of the Governing Bodies to be held from September 22 to October 1, 1997; that session would make decisions on further steps, particularly on the need for one or more further preparatory meetings as well as its or their date(s) and tasks.

*7. The WIPO Coordination Committee is invited to give its advice on, and the WIPO General Assembly and the Berne Union Assembly are invited to decide, the schedule of preparatory work on the Database Treaty and to note the financial implications referred to in paragraph 6(a), above.*

[End of document]

---

\* The cost of the meeting of the Committee of Experts on the Protocol on Audiovisual Performances (see document AB/XXX/2) would be 300,000 francs, so that the total cost of the two meetings would amount to 580,000 francs. However, if some or all of the participants financed by WIPO would be the same in the two meetings (which are proposed to be held during the same week), the total cost would be reduced, depending on how many of the participants are the same in the two meetings, by an amount of up to 250,000 francs.