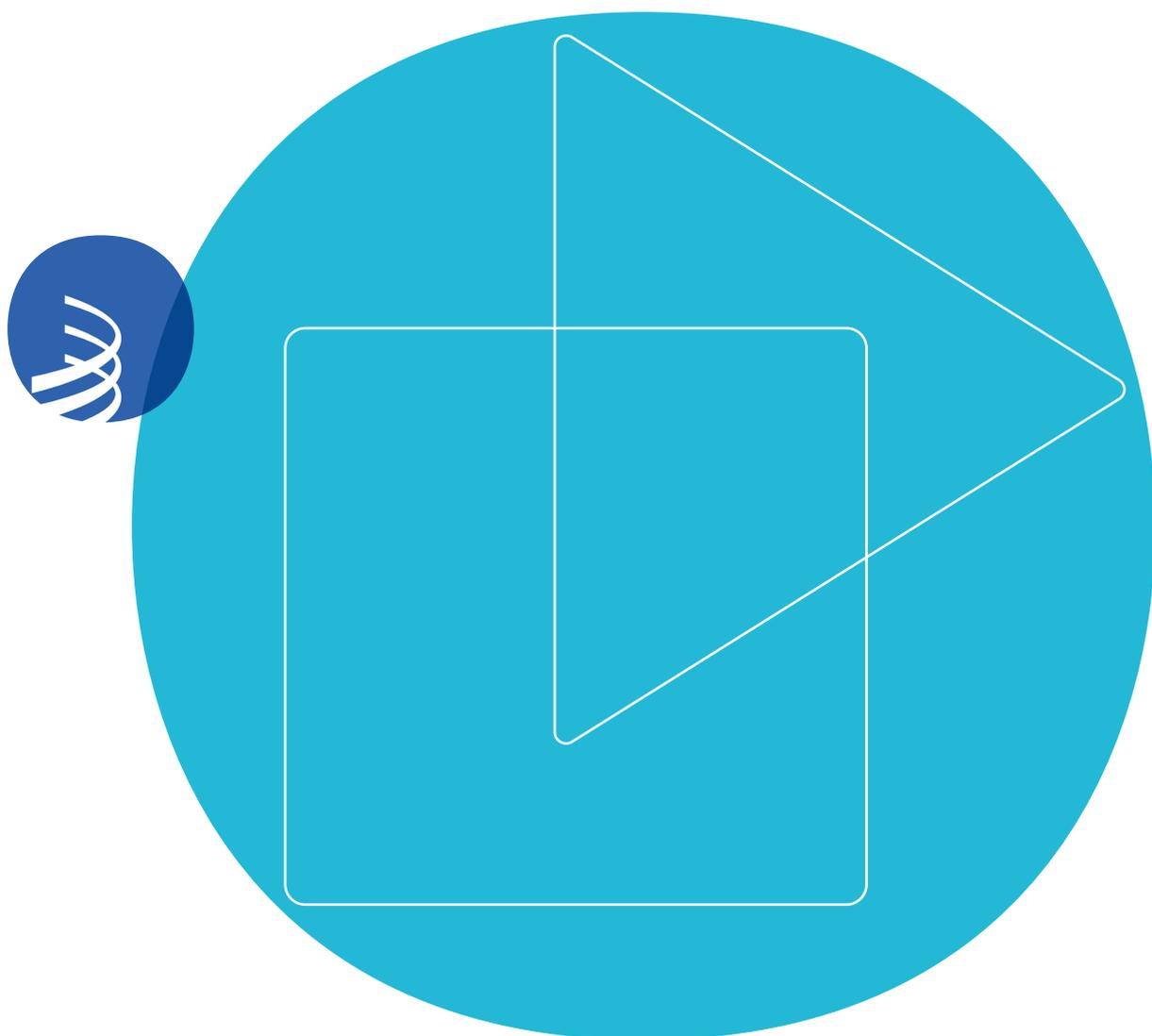


Records of the Diplomatic Conference on the Protection of Audiovisual Performances

Beijing, June 20 to 26, 2012





Records of the Diplomatic Conference on the Protection of Audiovisual Performances

Beijing, June 20 to 26, 2012

EDITOR'S NOTE

The *Records* of the Diplomatic Conference on the Protection of Audiovisual Performances, held in Beijing, China from June 20 to 26, 2012, contain the documents relating to that Conference, which were issued before, during, and after the Conference.

The Beijing Treaty on Audiovisual Performances

The first part of the volume contains:

- (1) The full text of the Beijing Treaty on Audiovisual Performances (Treaty), as adopted by the Diplomatic Conference on June 24, 2012 (page 21);
- (2) Agreed Statements Concerning the Beijing Treaty on Audiovisual Performances as adopted by the Diplomatic Conference on June 24, 2012 (page 32);
- (3) The text of the Basic Proposal for the Substantive Provisions of the Treaty as considered by the Diplomatic Conference (page 8);
- (4) The text of the Basic Proposal for Administrative Provisions and Final Clauses of the Treaty as considered by the Diplomatic Conference (page 15);
- (5) A comparison of the texts of the Basic Proposals and final text of the Beijing Treaty on the Protection of Audiovisual Performances (page 35);
- (6) Signatories to the Beijing Treaty on Audiovisual Performances (page 46); and
- (7) The Final Act of the Diplomatic Conference as adopted by the Diplomatic Conference on June 24, 2012 (page 53).

Conference Documents

The part entitled *Conference Documents* (pages 54 to 128) contains two series of documents distributed before, during, and after the Diplomatic Conference: main series "AVP/DC" and information series "AVP/DC/INF". A list of the conference documents, indicating on which page they are reproduced, begins on page 55.

Rules of Procedure

The *Rules of Procedure of the Diplomatic Conference*, approved by the Preparatory Meeting for the Diplomatic Conference, begin on page 60.

Summary Minutes

This part contains the summary minutes of the sessions of the Plenary (page 130), Main Committee I (page 201), and Main Committee II (page 207) of the Diplomatic Conference. Those minutes were written in their provisional form by the International Bureau based on transcripts of the recordings made of all interventions.

Participants

This part (pages 211 to 268), contains a list of the individuals who, in the Diplomatic Conference, represented Member Delegations (page 212), the WIPO General Assembly (page 260), the WIPO Standing Committee on Copyright and Related Rights (page 260), the Special Member Delegation (page 260), Intergovernmental Organizations (page 260), Non-Governmental Organizations (page 262) and the International Bureau of WIPO (page 267).

Indexes

These *Records* contain four different indexes (pages 269 to 305).

The first index (page 270) lists by number each article of the Treaty, and indicates the pages where the text of the article appears in these *Records* or where the article is discussed in the minutes.

EDITOR'S NOTE

The second index (page 277) is the alphabetical list of Member States and lists the pages on which they are referred to in the *Records*.

The third index (page 283) is the alphabetical list of the individual participants in the Diplomatic Conference and lists the pages on which they are referred to in the *Records*.

The fourth index (page 304) is the alphabetical list of the special delegation, intergovernmental organizations and non-governmental organizations and lists the pages on which they are referred to in the *Records*.

Geneva, June 2022

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THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

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**BASIC PROPOSAL FOR THE SUBSTANTIVE AND ADMINISTRATIVE PROVISIONS
CONSIDERED BY THE DIPLOMATIC CONFERENCE**

BASIC PROPOSAL FOR THE SUBSTANTIVE PROVISIONS OF THE TREATY TO BE
CONSIDERED BY THE DIPLOMATIC CONFERENCE

prepared by the Secretariat

PREAMBLE

The Contracting Parties,

Desiring to develop and maintain the protection of the rights of performers in their audiovisual performances in a manner as effective and uniform as possible,

Recognizing the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

Recognizing the profound impact of the development and convergence of information and communication technologies on the production and use of audiovisual performances,

Recognizing the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interest, particularly education, research and access to information,

Recognizing that the WIPO Performances and Phonograms Treaty done in Geneva, December 20, 1996, does not extend protection to performers in respect of their performances, fixed in audiovisual fixations,

Referring to the Resolution concerning Audiovisual Performances adopted by the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions on December 20, 1996,

Have agreed as follows:

Article 1

Relation to Other Conventions and Treaties

- (1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the WIPO Performances and Phonograms Treaty or the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome, October 26, 1961.
- (2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.
- (3) This Treaty shall not have any connection with treaties other than the WIPO Performances and Phonograms Treaty, nor shall it prejudice any rights and obligations under any other treaties.

BASIC PROPOSAL FOR THE SUBSTANTIVE PROVISIONS

Article 2
Definitions

For the purposes of this Treaty:

- (a) “performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;
- (b) “audiovisual fixation” means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- (c) “broadcasting” means the transmission by wireless means for public reception of sounds or of images or of images and sounds or of the representations of sounds; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent;
- (d) “communication to the public” of a performance means the transmission to the public by any medium, otherwise than by broadcasting, of an unfixed performance, or of a performance fixed in an audiovisual fixation. For the purposes of Article 11, “communication to the public” includes making a performance fixed in an audiovisual fixation audible or visible or audible and visible to the public.

Article 3
Beneficiaries of Protection

- (1) Contracting Parties shall accord the protection granted under this Treaty to performers who are nationals of other Contracting Parties.
- (2) Performers who are not nationals of one of the Contracting Parties but who have their habitual residence in one of them shall, for the purposes of this Treaty, be assimilated to nationals of that Contracting Party.

Article 4
National Treatment

- (1) Each Contracting Party shall accord to nationals of other Contracting Parties the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty and the right to equitable remuneration provided for in Article 11 of this Treaty.
- (2) A Contracting Party shall be entitled to limit the extent and term of the protection accorded to nationals of another Contracting Party under paragraph (1), with respect to the rights granted in Article 11(1) and 11(2) of this Treaty, to those rights that its own nationals enjoy in that other Contracting Party.
- (3) The obligation provided for in paragraph (1) does not apply to a Contracting Party to the extent that another Contracting Party makes use of the reservations permitted by Article 11(3) of this Treaty, nor does it apply to a Contracting Party, to the extent that it has made such reservation.

Article 5
Moral Rights

- (1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live performances or performances fixed in audiovisual fixations, have the right
- (i) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
 - (ii) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation, taking due account of the nature of audiovisual fixations.
- (2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.
- (3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed.

Article 6
Economic Rights of Performers in their Unfixed Performances

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

- (i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and
- (ii) the fixation of their unfixed performances.

Article 7
Right of Reproduction

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in audiovisual fixations, in any manner or form.

Article 8
Right of Distribution

- (1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in audiovisual fixations through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer.

Article 9 Right of Rental

(1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in audiovisual fixations as determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.

(2) Contracting Parties are exempt from the obligation of paragraph (1) unless the commercial rental has led to widespread copying of such fixations materially impairing the exclusive right of reproduction of performers.

Article 10 Right of Making Available of Fixed Performances

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

Article 11 Right of Broadcasting and Communication to the Public

(1) Performers shall enjoy the exclusive right of authorizing the broadcasting and communication to the public of their performances fixed in audiovisual fixations.

(2) Contracting Parties may in a notification deposited with the Director General of the World Intellectual Property Organization (WIPO) declare that, instead of the right of authorization provided for in paragraph (1), they establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or for communication to the public. Contracting Parties may also declare that they set conditions in their legislation for the exercise of the right to equitable remuneration.

(3) Any Contracting Party may declare that it will apply the provisions of paragraphs (1) or (2) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply the provisions of paragraphs (1) and (2) at all.

Article 12 Transfer of rights

A Contracting Party may provide in its national law that once a performer has consented to fixation of his or her performance in an audiovisual fixation, the exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation subject to any contract to the contrary between the performer and the producer of the audiovisual fixation as determined by the national law.

A Contracting Party may require with respect to audiovisual fixations produced under its national law that such consent or contract be in writing and signed by both parties to the contract or by their duly authorized representatives.

Independent of the transfer of exclusive rights described above, national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11.

Article 13 Limitations and Exceptions

- (1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.
- (2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests of the performer.

Article 14 Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

Article 15 Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law.

Article 16 Obligations concerning Rights Management Information

- (1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:
 - (i) to remove or alter any electronic rights management information without authority;
 - (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations

knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, “rights management information” means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation.

Article 17 Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

Article 18 Reservations and Notifications

(1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.

(2) Any declaration under Article 11(2) or 19(2) may be made in the instruments referred to in Article ..., and the effective date of the declaration shall be the same as the date of entry into force of this Treaty with respect to the State or intergovernmental organization having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the declaration.

Article 19 Application in Time

(1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.

(2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.

(3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.

(4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

Article 20

Provisions on Enforcement of Rights

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.
 - (2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.
-

BASIC PROPOSAL FOR ADMINISTRATIVE PROVISIONS AND FINAL CLAUSES OF THE
TREATY TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE

*approved by the Preparatory Committee of the Diplomatic Conference on the Protection of
Audiovisual Performances*

Observations of the International Bureau

PRESENTATION OF THE PROVISIONS

At the direction of Members of the Preparatory Committee, the proposed administrative provisions and final clauses are primarily modeled after the corresponding provisions of the WPPT. Some modifications were required for clarity or to ensure that this treaty is harmonized with constitutional amendments that, once they enter into force, will provide for Assemblies to meet in ordinary session every year. Where these deviations from the WPPT have been made, the Notes reproduce the corresponding provision of the WPPT in a clearly distinguishable box and explain the scope and reason for deviation.

Article 21Assembly

- (1) (a) The Contracting Parties shall have an Assembly
- (b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.
- (c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.
- (2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.
- (b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.
- (c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.
- (3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.
- (b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its

Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

[Notes on Article 21]

21.01 Paragraph (4) mirrors Article 23(6) of the Singapore Treaty on the Law of Trademarks. This harmonizes the treaty with the constitutional amendments that, once they enter into force, will provide for Assemblies to meet in ordinary session every year

21.02 In addition, “the Organization” in the STLT version has been replaced by “WIPO” for clarity.

Article 23 of the Singapore Treaty on the Law of Trademarks

[continued]

(6) [Sessions] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

[continues]

[Article 21, continued]

(4) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.

[Notes on Article 21, continued]

21.03 Paragraph (5) is a hybrid of Article 24(5) of the WPPT and Article 23(4)(a) of the Singapore Treaty on the Law of Trademarks.

21.04 At the request of Members of the Preparatory Committee, the resulting provision reflects a desire for decisions to be taken by consensus (from the STLT) while maintaining the rule-making procedures of the WPPT.

Article 24 of the WPPT

[continued]

(5) The Assembly shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

[End of Article 24]

Article 23 of the Singapore Treaty on the Law of Trademarks

[continued]

(4) [*Taking Decisions in the Assembly*]

(a) The Assembly shall endeavor to take its decisions by consensus.

[continues]

[Article 21, continued]

(5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

[End of Article 21]

Article 22International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

[End of Article 22]

Article 23Eligibility for Becoming Party to the Treaty

(1) Any Member State of WIPO may become party to this Treaty.

(2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

(3) The European Union, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

[End of Article 23]

Article 24Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

[End of Article 24]

[Notes on Article 25]

25.01 Article 25 is in similar terms to Article 31(2) of the Singapore Treaty on the Law of Trademarks.

25.02 For added clarity, the Preparatory Committee replaced “the Organization” with “WIPO” and added the provision that “any eligible party” may sign the treaty.

Article 31 of the Singapore Treaty on the Law of Trademarks

[continued]

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

[continues]

Article 25Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

[End of Article 25]

[Notes on Article 26]

26.01 Article 26 reflects Article 29 of the WPPT. For clarity, the Preparatory Committee added language specifying that the entry into force depends on the deposit of instruments of ratification or accession by the “eligible parties referred to in Article 23”.

Article 29 of the WPPT

This Treaty shall enter into force three months after 30 instruments of ratification or accession by States have been deposited with the Director General of WIPO.

Article 26Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

[End of Article 26]

Article 27Effective Date of Becoming Party to the Treaty

This Treaty shall bind:

- (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;
- (ii) each other State from the expiration of three months from the date on which the State has deposited its instrument with the Director General of WIPO;
- (iii) the European Union, from the expiration of three months after the deposit of its instrument of ratification or accession if such instrument has been deposited after the entry into force of this Treaty according to Article 26, or, three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;
- (iv) any other intergovernmental organization that is admitted to become party to this Treaty, from the expiration of three months after the deposit of its instrument of accession.

[End of Article 27]

Article 28Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

[End of Article 28]

Article 29

Languages of the Treaty

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

[End of Article 29]

Article 30

Depositary

The Director General of WIPO is the depositary of this Treaty.

[End of Article 30 and of document]

THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

adopted by the Diplomatic Conference on June 24, 2012

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Preamble

The Contracting Parties,

Desiring to develop and maintain the protection of the rights of performers in their audiovisual performances in a manner as effective and uniform as possible,

Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the Convention Establishing the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work,

Recognizing the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

Recognizing the profound impact of the development and convergence of information and communication technologies on the production and use of audiovisual performances,

Recognizing the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interest, particularly education, research and access to information,

Recognizing that the WIPO Performances and Phonograms Treaty (WPPT) done in Geneva on December 20, 1996, does not extend protection to performers in respect of their performances fixed in audiovisual fixations,

Referring to the Resolution concerning Audiovisual Performances adopted by the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions on December 20, 1996,

Have agreed as follows:

Article 1

Relation to Other Conventions and Treaties

- (1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the WPPT or the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome on October 26, 1961.
- (2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.
- (3) This Treaty shall not have any connection with treaties other than the WPPT, nor shall it prejudice any rights and obligations under any other treaties.

Article 2

Definitions

For the purposes of this Treaty:

- (a) “performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;
- (b) “audiovisual fixation” means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- (c) “broadcasting” means the transmission by wireless means for public reception of sounds or of images or of images and sounds or of the representations thereof; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent;
- (d) “communication to the public” of a performance means the transmission to the public by any medium, otherwise than by broadcasting, of an unfixed performance, or of a performance fixed in an audiovisual fixation. For the purposes of Article 11, “communication to the public” includes making a performance fixed in an audiovisual fixation audible or visible or audible and visible to the public.

Article 3

Beneficiaries of Protection

- (1) Contracting Parties shall accord the protection granted under this Treaty to performers who are nationals of other Contracting Parties.

(2) Performers who are not nationals of one of the Contracting Parties but who have their habitual residence in one of them shall, for the purposes of this Treaty, be assimilated to nationals of that Contracting Party.

Article 4

National Treatment

(1) Each Contracting Party shall accord to nationals of other Contracting Parties the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty and the right to equitable remuneration provided for in Article 11 of this Treaty.

(2) A Contracting Party shall be entitled to limit the extent and term of the protection accorded to nationals of another Contracting Party under paragraph (1), with respect to the rights granted in Article 11(1) and 11(2) of this Treaty, to those rights that its own nationals enjoy in that other Contracting Party.

(3) The obligation provided for in paragraph (1) does not apply to a Contracting Party to the extent that another Contracting Party makes use of the reservations permitted by Article 11(3) of this Treaty, nor does it apply to a Contracting Party, to the extent that it has made such reservation.

Article 5

Moral Rights

(1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live performances or performances fixed in audiovisual fixations, have the right:

(i) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and

(ii) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation, taking due account of the nature of audiovisual fixations.

(2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed.

Article 6**Economic Rights of Performers in their Unfixed Performances**

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

- (i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and
- (ii) the fixation of their unfixed performances.

Article 7**Right of Reproduction**

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in audiovisual fixations, in any manner or form.

Article 8**Right of Distribution**

- (1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in audiovisual fixations through sale or other transfer of ownership.
- (2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer.

Article 9**Right of Rental**

- (1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in audiovisual fixations as determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.
- (2) Contracting Parties are exempt from the obligation of paragraph (1) unless the commercial rental has led to widespread copying of such fixations materially impairing the exclusive right of reproduction of performers.

Article 10**Right of Making Available of Fixed Performances**

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

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- (2) Contracting Parties may in a notification deposited with the Director General of WIPO declare that, instead of the right of authorization provided for in paragraph (1), they will establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or for communication to the public. Contracting Parties may also declare that they will set conditions in their legislation for the exercise of the right to equitable remuneration.
- (3) Any Contracting Party may declare that it will apply the provisions of paragraphs (1) or (2) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply the provisions of paragraphs (1) and (2) at all.

Article 12**Transfer of Rights**

- (1) A Contracting Party may provide in its national law that once a performer has consented to fixation of his or her performance in an audiovisual fixation, the exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation subject to any contract to the contrary between the performer and the producer of the audiovisual fixation as determined by the national law.
- (2) A Contracting Party may require with respect to audiovisual fixations produced under its national law that such consent or contract be in writing and signed by both parties to the contract or by their duly authorized representatives.
- (3) Independent of the transfer of exclusive rights described above, national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11.

Article 13
Limitations and Exceptions

- (1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.
- (2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests of the performer.

Article 14
Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

Article 15
Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law.

Article 16
Obligations concerning Rights Management Information

- (1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:
- (i) to remove or alter any electronic rights management information without authority;
 - (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations knowing that electronic rights management information has been removed or altered without authority.
- (2) As used in this Article, "rights management information" means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation.

Article 17**Formalities**

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

Article 18**Reservations and Notifications**

- (1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.
- (2) Any notification under Article 11(2) or 19(2) may be made in instruments of ratification or accession, and the effective date of the notification shall be the same as the date of entry into force of this Treaty with respect to the Contracting Party having made the notification. Any such notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the notification.

Article 19**Application in Time**

- (1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.
- (3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.
- (4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

Article 20**Provisions on Enforcement of Rights**

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.
- (2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

Article 21**Assembly**

- (1) (a) The Contracting Parties shall have an Assembly.
 - (b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.
 - (c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.
- (2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.
 - (b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.
 - (c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.
- (3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.
 - (b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.
- (4) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.
- (5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements

of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 22

International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

Article 23

Eligibility for Becoming Party to the Treaty

- (1) Any Member State of WIPO may become party to this Treaty.
- (2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.
- (3) The European Union, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 24

Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 25

Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 26

Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

Article 27**Effective Date of Becoming Party to the Treaty**

This Treaty shall bind:

- (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;
- (ii) each other eligible party referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO.

Article 28**Denunciation of the Treaty**

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 29**Languages of the Treaty**

- (1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.
- (2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 30**Depositary**

The Director General of WIPO is the depositary of this Treaty.

AGREED STATEMENTS CONCERNING THE BEIJING TREATY ON AUDIOVISUAL
PERFORMANCES

adopted by the Diplomatic Conference on June 24, 2012

Concerning Article 1

It is understood that nothing in this Treaty affects any rights or obligations under the WIPO Performances and Phonograms Treaty (WPPT) or their interpretation and it is further understood that paragraph 3 does not create any obligations for a Contracting Party to this Treaty to ratify or accede to the WPPT or to comply with any of its provisions.

It is understood that Contracting Parties who are members of the World Trade Organization (WTO) acknowledge all the principles and objectives of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and understand that nothing in this Treaty affects the provisions of the TRIPS Agreement, including, but not limited to, the provisions relating to anti-competitive practices.

Concerning Article 2(a)

It is understood that the definition of “performers” includes those who perform a literary or artistic work that is created or first fixed in the course of a performance.

Concerning Article 2(b)

It is hereby confirmed that the definition of “audiovisual fixation” contained in Article 2(b) is without prejudice to Article 2(c) of the WPPT.

Concerning Article 5

Agreed statement concerning Article 5: For the purposes of this Treaty and without prejudice to any other treaty, it is understood that, considering the nature of audiovisual fixations and their production and distribution, modifications of a performance that are made in the normal course of exploitation of the performance, such as editing, compression, dubbing, or formatting, in existing or new media or formats, and that are made in the course of a use authorized by the performer, would not in themselves amount to modifications within the meaning of Article 5(1)(ii). Rights under Article 5(1)(ii) are concerned only with changes that are objectively prejudicial to the performer’s reputation in a substantial way. It is also understood that the mere use of new or changed technology or media, as such, does not amount to modification within the meaning of Article 5(1)(ii).

Concerning Article 7

Agreed statement concerning Article 7: The reproduction right, as set out in Article 7, and the exceptions permitted thereunder through Article 13, fully apply in the digital environment, in particular to the use of performances in digital form. It is understood that the storage of a

protected performance in digital form in an electronic medium constitutes a reproduction within the meaning of this Article.

Concerning Articles 8 and 9

Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression “original and copies,” being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression “original and copies,” being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

Concerning Article 13

Agreed statement concerning Article 13: The Agreed statement concerning Article 10 (on Limitations and Exceptions) of the WIPO Copyright Treaty (WCT) is applicable *mutatis mutandis* also to Article 13 (on Limitations and Exceptions) of the Treaty.

Concerning Article 15 as it relates to Article 13

Agreed statement concerning Article 15 as it relates to Article 13: It is understood that nothing in this Article prevents a Contracting Party from adopting effective and necessary measures to ensure that a beneficiary may enjoy limitations and exceptions provided in that Contracting Party’s national law, in accordance with Article 13, where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance, in circumstances such as where appropriate and effective measures have not been taken by rights holders in relation to that performance to enable the beneficiary to enjoy the limitations and exceptions under that Contracting Party’s national law. Without prejudice to the legal protection of an audiovisual work in which a performance is fixed, it is further understood that the obligations under Article 15 are not applicable to performances unprotected or no longer protected under the national law giving effect to this Treaty.

Concerning Article 15

The expression “technological measures used by performers” should, as this is the case regarding the WPPT, be construed broadly, referring also to those acting on behalf of performers, including their representatives, licensees or assignees, including producers, service providers, and persons engaged in communication or broadcasting using performances on the basis of due authorization.

Concerning Article 16

The Agreed statement concerning Article 12 (on Obligations concerning Rights Management Information) of the WCT is applicable *mutatis mutandis* also to Article 16 (on Obligations concerning Rights Management Information) of the Treaty.

MARKED-UP TEXT

MARKED-UP TEXT
SHOWING CHANGES BETWEEN THE BASIC PROPOSAL AND THE FINAL TEXT OF THE
TREATY**EDITOR'S NOTE**

Text deleted from the Basic Proposal is marked with ~~strike through~~ and text added is **bold and underlined**. All other text reflects the text of the Basic Proposal.

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Article 2: Definitions

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Article 13

Limitations and Exceptions

- (1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.
- (2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests of the performer.

Article 14
Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

Article 15
Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law.

Article 16
Obligations concerning Rights Management Information

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:

- (i) to remove or alter any electronic rights management information without authority;
- (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, "rights management information" means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation.

Article 17
Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

Article 18
Reservations and Notifications

(1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.

(2) Any ~~declaration~~ **notification** under Article 11(2) or 19(2) may be made in the instruments referred to in Article ~~...~~ **of ratification or accession**, and the effective date of the

~~declaration~~notification shall be the same as the date of entry into force of this Treaty with respect to the ~~State or intergovernmental organization~~Contracting Party having made the ~~declaration~~notification. Any such ~~declaration~~notification may also be made later, in which case the ~~declaration~~notification shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the ~~declaration~~notification.

Article 19 Application in Time

- (1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.
- (3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.
- (4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

Article 20 Provisions on Enforcement of Rights

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.
- (2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

Article 21 Assembly

- (1) (a) The Contracting Parties shall have an Assembly.
 - (b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

(2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

(3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

(4) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.

(5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 22 International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

Article 23 Eligibility for Becoming Party to the Treaty

(1) Any Member State of WIPO may become party to this Treaty.

(2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

(3) The European Union, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 24
Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 25
Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 26
Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

Article 27
Effective Date of Becoming Party to the Treaty.

This Treaty shall bind:

(i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;

(ii) each other ~~State~~**eligible party referred to in Article 23**, from the expiration of three months from the date on which ~~the State~~**it** has deposited its instrument **of ratification or accession** with the Director General of WIPO;

~~(iii) the European Union, from the expiration of three months after the deposit of its instrument of ratification or accession if such instrument has been deposited after the entry into force of this Treaty according to Article 26, or, three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;~~

~~(iv) any other intergovernmental organization that is admitted to become party to this Treaty, from the expiration of three months after the deposit of its instrument of accession.~~

Article 28
Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 29**Languages of the Treaty**

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 30**Depositary**

The Director General of WIPO is the depositary of this Treaty.

SIGNATORIES TO THE TREATY

SIGNATORIES TO THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

The following Delegations signed the Beijing Treaty on Audiovisual Performances

State	Date	Signatory
Austria	June 19, 2013	H.E. Mr. Thomas Hajnoczi (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Belgium	May 8, 2013	Mr. Patrick Nijs (ambassadeur, Ambassade de Belgique, Beijing)
Botswana	October 4, 2012	H.E. Mr. Mothusi Bruce Rabasha Palai (Ambassador, Permanent Representative, Geneva)
Bulgaria	December 19, 2012	H.E. Mr. Ivan Piperkov (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Burkina Faso	June 26, 2012	Mr. Leonard Sanon (Directeur, Affaires juridiques et de la coopération internationale, Bureau burkinabé du droit d'auteur (BBDA), Ministère de la culture et du tourisme, Ouagadougou)
Burundi	June 26, 2012	Mr. Jean de Dieu Ndarishikije, (Director, Ministry of External and International Cooperation, Bujumbura)
Cameroon	June 26, 2012	S.E. Mme Ama Tutu Muna (Ministre des arts et de la culture, Ministère des arts et de la culture, Yaoundé)
Central African Republic	June 26, 2012	M. Bruno Yapande (chargé de Mission culture et patrimoine, Ministère de la jeunesse, des sports, des arts et de la culture, Bangui)
Chad	June 26, 2012	S.E. M. Ahmed Soungui (Ambassadeur, Ambassade du Tchad, Beijing)
Chile	June 26, 2012	S.E. Sr. Mario Matus (Embajador, Representante Permanente, Misión Permanente ante la OMC, Ginebra)

SIGNATORIES TO THE TREATY

State	Date	Signatory
China	June 26, 2012	H.E. Mr. Binjie Liu (Minister, National Copyright Administration of China (NCAC), Beijing)
Colombia	June 26, 2012	Sr. Felipe García Pineda (Director Nacional, Dirección General, Dirección Nacional de Derecho de Autor, Ministerio del Interior, Bogotá, D.C.)
Congo	June 26, 2012	H.E. Mr. Luc-Joseph Okio (ambassadeur, représentant permanent, Mission permanente, Genève)
Costa Rica	June 26, 2012	Sr. Luis Jiménez Sancho (Subdirector General, Registro Nacional, San José)
Côte d'Ivoire	June 26, 2012	H.E. Mr. Maurice Kouakou Bandaman (ministre de la culture et de la francophonie, Ministère de la culture et de la francophonie, Abidjan)
Cyprus	June 26, 2012	H.E. Mrs. Ioanna Malliotis (Ambassador, Embassy of Cyprus, Beijing)
Czech Republic	April 29, 2013	H.E. Ms. Kateřina Sequensová (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Democratic People's Republic of Korea	June 26, 2012	Mr. Hung Sik Ri (Director-General, Department of International Organizations, Ministry of Foreign Affairs of the Democratic People's Republic of Korea, Pyongyang)
Denmark	June 26, 2012	Ms. Bente Skovgaard Kristensen (Head, Copyright Division, Ministry of Culture, Copenhagen)
Djibouti	June 26, 2012	S.E. M. Abdallah Abdillahi Miguil (ambassadeur, Ambassade de Djibouti, Beijing)
El Salvador	November 7, 2012	S.E. Sr. Francisco Alberto Lima Mena (Embajador, Representante Permanente, Misión Permanente ante la OMC, Ginebra)
Estonia	June 20, 2013	H.E. Mr. Jüri Seilenthal (Ambassador, Permanent

SIGNATORIES TO THE TREATY

State	Date	Signatory
		Representative, Permanent Mission, Geneva)
European Union	June 19, 2013	H.E. Mr. Richard Bruton (Minister for Jobs, Enterprise and Innovation for Ireland, President-in-Office of the Council of the European Union, Brussels)
Finland	June 14, 2013	H.E. Ms. Päivi Kairamo (Ambassador, Permanent Representative, Permanent Mission, Geneva)
France	June 26, 2012	S.E. Mme. Sylvie Bermann (ambassadeur, Ambassade de France, Beijing)
Germany	June 20, 2013	H.E. Mr. Hanns Heinrich Schumacher (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Ghana	June 26, 2012	H.E. Mr. Ebo Barton-Odro (Deputy Attorney-General, Deputy Minister for Justice, Ministry of Justice, Accra)
Greece	June 20, 2013	Mr. Alexandros Alexandris (Head of Permanent Mission, Geneva)
Grenada	June 26, 2012	H.E. Mr. Arley Gill (Ambassador, Ministry of Foreign Affairs, St. George's)
Guatemala	May 27, 2013	S.E. Sr. Eduardo Sperisen Yurt (Embajador, Representante Permanente, Misión Permanente ante la OMC, Ginebra)
Guinea	June 26, 2012	Mme. Aminata Kourouma-Mikala (conseillère affaires économiques et commerciales, Mission permanente, Genève)
Haiti	June 26, 2012	Mr. Emmanuel Derivois (directeur général, Bureau haïtien du droit d'auteur (BHDA), Ministère de la culture et de la communication, Port-au-Prince)
Honduras	October 4, 2012	Sra. Lidia Álvarez Sagastume (Secretaria Ejecutiva del Instituto de la propiedad, Tegucigalpa)

SIGNATORIES TO THE TREATY

State	Date	Signatory
Hungary	June 26, 2012	Mr. Mihály Zoltán Ficsor (Vice-President, Hungarian Intellectual Property Office, Budapest)
Indonesia	December 18, 2012	Mr. Ahmad Mujahid Ramli (Director General, Directorate General of Intellectual Property Rights, Law and Human Rights, Tangerang)
Ireland	June 19, 2013	Mr. Richard Bruton (Minister for Jobs, Enterprise and Innovation, Dublin)
Italy	June 26, 2012	H.E. Mr. Attilio Massimo Iannucci (Ambassador, Embassy of Italy, Beijing)
Jamaica	June 26, 2012	H.E. Mr. Earle Courtenay Rattray (Ambassador, Embassy of Jamaica, Beijing)
Jordan	June 26, 2012	Mr. Mohammad Amin Younis Al Faleh Al Abadi (Director General, Department of the National Library, Ministry of Culture, Amman)
Kenya	June 26, 2012	Ms. Marisella Ouma (Executive Director, Kenya Copyright Board, Nairobi)
Luxembourg	June 20, 2013	S.E. M. Jean-Marc Hoscheit (ambassadeur, représentant permanent, Mission permanente, Genève)
Madagascar	June 26, 2012	M. Andriamiharimanana Haja Ranjarivo (directeur, Office malgache du droit d'auteur (OMDA), Ministère de la culture et du patrimoine, Antananarivo)
Mali	June 26, 2012	S.E. M. N'Tji Laïco Traore (ambassadeur, Ambassade du Mali, Beijing)
Mauritania	June 26, 2012	M. Mohamed Barka (conseiller juridique, Cabinet du ministre, Ministère de la culture, de la jeunesse et des sports, Nouakchott)
Mauritius	June 26, 2012	Mr. Islam Bhugan (Deputy Director, Culture, Ministry of Arts and Culture, Port Louis)
Mexico	June 26, 2012	Sr. Manuel Guerra Zamorro (Director General, Instituto Nacional del

SIGNATORIES TO THE TREATY

State	Date	Signatory
		Derecho de Autor, Secretaría de Educación Pública, México, D.F.)
Mongolia	June 26, 2012	Mr. Namjil Chinbat (Director General, Intellectual Property Office of Mongolia, Ulaanbaatar)
Montenegro	May 27, 2013	H.E. Mr. Ljubiša Perović (Permanent Representative, Permanent Mission, Geneva)
Morocco	June 26, 2012	H.E. Mr. Jaafar Alj Hakim (ambassadeur, Ambassade du Maroc, Beijing)
Namibia	June 26, 2012	Mr. Simon Madjumo Maruta (chargé d'affaires, Permanent Mission, Geneva)
Netherlands	June 19, 2013	H.E. Mr. Roderick Schreven (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Nicaragua	June 26, 2012	Sr. Hernán Guillermo Talavera Corea (Negociador de Propiedad Intelectual, Dirección General del Registro de la Propiedad Intelectual, Ministerio de Fomento, Industria y Comercio, Managua)
Peru	June 26, 2012	S.E. Sr. Gonzalo Gutiérrez Reinel (Embajador, Embajada del Perú, Beijing)
Poland	June 24, 2013	H.E. Mr. Remigiuz Henczel (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Qatar	June 24, 2013	H.E. Ms. Sheikha Alya bint Ahmed bin Saif al-Thani (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Republic of Moldova	June 26, 2012	Ms. Lilia Bolocan (Director General, State Agency on Intellectual Property, Chisinau)
Romania	June 24, 2013	H.E. Ms. Maria Ciobanu (Ambassador, Permanent Representative, Permanent Mission, Geneva)
Sao Tome and Principe	June 26, 2012	M. Abenilde Tomé Pires dos Santos (Funcionario, Servicio Nacional de la

SIGNATORIES TO THE TREATY

State	Date	Signatory
		Propiedad Industrial (SENAPI), Sao Tome)
Senegal	June 26, 2012	Mr. Mouhamadou Mounirou Sy (directeur général, Bureau sénégalais du droit d'auteur, Ministère de la culture et du tourisme, Dakar)
Seychelles	June 26, 2012	Ms. Sybil Labrosse (Manager, Cultural Property and Copyrights, Department of Culture, Ministry of Tourism and Culture, Mahe)
Sierra Leone	June 26, 2012	Ms. Mariama Kallay (Administrator, Registrar General, Office of the Administrator and Registrar General, Attorney General's Office and Ministry of Justice, Freetown)
Slovenia	June 21, 2013	H.E. Mr. Matjaž Kovačič (Permanent Representative, Permanent Mission, Geneva)
Spain	June 26, 2012	H.E. Mr. Eugenio Bregolat y Obiols (Embajador, Embajada de España, Beijing)
Sudan	June 26, 2012	Ms. Hala Qasim Ali Bakkhit (Secretary General, Federal Council for Literary and Artistic Works, Ministry of Culture, Omdurman)
Sweden	June 14, 2013	H.E. Mr. Jan Knutsson (Ambassador Permanent Representative, Permanent Mission, Geneva)
Switzerland	June 26, 2012	Ms. Alexandra Grazioli (Senior Legal Adviser, International Trade Relations, Federal Institute of Intellectual Property, Bern)
Syrian Arab Republic	June 26, 2012	Mr. Al-Amin Ahmad Zouiter (Director, Copyright Directorate, Ministry of Culture, Damascus)
Togo	June 26, 2012	H.E. Ms. Nolana Ta-Ama (ambassadeur, Ambassade du Togo, Beijing)
Tunisia	June 26, 2012	Mr. Youssef Ben Brahim (directeur, Affaires juridiques, Ministère de la culture, Tunis)
Uganda	October 8, 2012	H.E. Mr. Maurice Peter Kagimu Kiwanuka (Ambassador, Permanent

SIGNATORIES TO THE TREATY

State	Date	Signatory
		Representative, Permanent Mission, Geneva)
United Kingdom	June 11, 2013	H.E. Ms. Karen Pierce (Ambassador, Permanent Representative, Permanent Mission, Geneva)
United States of America	June 26, 2012	Mr. Justin Hughes (Senior Advisor to the Undersecretary of Commerce, United States Patent and Trademark Office (USPTO), Department of Commerce, Alexandria)
Zambia	June 26, 2012	H.E. Mr. Gerald P. Nyirenda (Ambassador, Embassy of Zambia, Beijing)
Zimbabwe	December 11, 2012	H.E. Mr. James Manzou (Ambassador, Embassy of Zimbabwe, Beijing)

FINAL ACT OF THE DIPLOMATIC CONFERENCE

adopted by the Diplomatic Conference on June 24, 2012

In accordance with the decision by the WIPO General Assembly taken at its fortieth (20th Ordinary) session (September 2011) to hold a Diplomatic Conference on the Protection of Audiovisual Performances and following preparations carried out by the Preparatory Committee of the said Conference and WIPO Secretariat, as well as the Government of the People's Republic of China, the Diplomatic Conference on the Protection of Audiovisual Performances was convened by WIPO and held in Beijing from June 20 to 26, 2012.

The Diplomatic Conference adopted, on June 24, 2012, the Beijing Treaty on Audiovisual Performances, which was opened for signature on June 26, 2012.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Final Act in Beijing, on June 26, 2012:

Algeria, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Belize, Benin, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Lao People's Democratic Republic, Latvia, Lithuania, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Norway, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Republic of Korea, Republic of Moldova, Russian Federation, Saint Kitts and Nevis, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Togo, Tonga, Trinidad and Tobago, Tunisia, Ukraine, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Zambia, Zimbabwe, European Union (123).

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December 12, 2011 (Original: English)

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prepared by the Secretariat

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2. Consideration and adoption of the Rules of Procedure
3. Election of the President of the Conference
4. Consideration and adoption of the agenda
5. Election of the Vice-Presidents of the Conference
6. Election of the members of the Credentials Committee
7. Election of the members of the Drafting Committee
8. Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee
9. Consideration of the first report of the Credentials Committee
10. Opening declarations by Delegations and by representatives of Observer Entities
11. Consideration of the texts proposed by the Main Committees
12. Consideration of the second report of the Credentials Committee
13. Adoption of the Treaty
14. Adoption of any recommendation, resolution, agreed statement or final act
15. Closing declarations by Delegations and by representatives of Observer Entities
16. Closing of the Conference by the President

[End of document]

AVP/DC/2

December 14, 2011 (Original: English)

DRAFT AMENDED RULES OF PROCEDURE OF THE DIPLOMATIC CONFERENCE

*approved by the Preparatory Meeting for the Diplomatic Conference on the Protection of
Audiovisual Performances*

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CHAPTER I:	OBJECTIVE, COMPETENCE, COMPOSITION AND SECRETARIAT OF THE CONFERENCE
<u>Rule 1:</u>	<u>Objective and Competence of the Conference</u>

(1) The objective of the Reconvened Diplomatic Conference on the Protection of Audiovisual Performances (hereinafter referred to as “the Conference”) is to conclude the WIPO

Treaty on Audiovisual Performances (hereinafter referred to as “the Treaty”) pursuant to the mandate contained in the General Assembly document WO/GA/40/11.

- (2) The Conference, meeting in Plenary, shall be competent to:
- (i) adopt the amended 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 Treaty;
 - (v) adopt any recommendation or resolution within the terms of the objectives in paragraph (1);
 - (vi) adopt the agreed statements and preambular clause pursuant to the mandate contained in the General Assembly document WO/GA/40/11;
 - (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.
- (3) By virtue of adoption of these amended Rules of Procedure, any and all pre-existing accreditations, elections as officers, or elections to committees shall be considered lapsed.

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 Union (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 and others invited to the Conference as observers (hereinafter referred to as “the Observers”).
- (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 Observers.

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: Observers

An Observer may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

(1) Each Delegation shall present credentials.

(2) Full powers shall be required for signing the Treaty. Such powers may be included in the credentials.

Rule 7: Letters of Appointment

The representatives of Observers shall present a letter or other document appointing them.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary of the Conference, preferably not later than twenty-four hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

(1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7, respectively, and shall report to the Conference, meeting in Plenary.

(2) The decision on whether a credential, full powers, letter or other document is in order shall be made by the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the adoption of the Treaty.

Rule 10: Provisional Participation

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and Observers shall be entitled to participate provisionally in the deliberations of the Conference as provided in these Rules.

CHAPTER III: COMMITTEES AND WORKING GROUPS

Rule 11: Credentials Committee

(1) The Conference shall have a Credentials Committee.

(2) The Credentials Committee shall consist of seven Member Delegations elected by the Conference, meeting in Plenary, from among the Member Delegations, except that the Special Delegation shall not be eligible for membership in the Credentials Committee.

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 Treaty 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 Treaty.

(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 12 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 coordinating 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 seven 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. 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 the 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 the President

If the 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 Treaty 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 Presiding Officers 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 Observers.

(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 may speak on any question. When the debate is limited and a Delegation or Observer 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 as 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.

Rule 27: Suspension or Adjournment of the Meeting

During the discussion of any matter, any Member Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

Rule 28: Order of Procedural Motions; Content of Interventions on Such Motions

(1) Subject to Rule 23, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting,
- (ii) to adjourn the meeting,
- (ii) to adjourn the debate on the question under discussion,
- (iv) to close the debate on the question under discussion.

(2) Any Member Delegation that has been given the floor on a procedural motion may speak on that motion only, and may not speak on the substance of the matter under discussion.

Rule 29: Basic Proposal; Proposals for Amendment

(1) (a) Documents [documents prepared in accordance with Rule 1 will be specified here] shall constitute the basis of the discussions in the Conference, and the text of the draft Treaty contained in those documents shall constitute the "Basic Proposal."

(b) Where, for any given provision of the draft Treaty there are two or three alternatives in the Basic Proposal, consisting of either two or three texts, or one or two texts and an alternative that there should be no such provision, the alternatives shall be designated with the letters A, B and, where applicable, C, and shall have equal status. Discussions shall take place simultaneously on the alternatives and, if voting is necessary and there is no consensus on which alternative should be put to the vote first, each Member Delegation shall be invited to indicate its preference among the two or three alternatives. The alternative supported by more Member Delegations than the other one or two alternatives shall be put to the vote first.

(c) Wherever the Basic Proposal contains words within square brackets, only the text that is not within square brackets shall be regarded as part of the Basic Proposal, whereas words within square brackets shall be treated as a proposal for amendment if presented as provided in paragraph (2).

(2) Any Member Delegation may propose amendments to the Basic Proposal.

(3) Proposals for amendment shall, as a rule, be submitted in writing and handed to the Secretary of the body concerned. The Secretariat shall distribute copies to the Delegations and the Observers. As a general rule, a proposal for amendment cannot be taken into consideration and discussed or put to the vote at a meeting unless copies of it have been distributed not later than three hours before it is taken into consideration. The Presiding 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 motion 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 Union, exercise the rights to vote of the Member States of the European Union which are represented at the Diplomatic Conference, provided that

- (i) the Special Delegation shall not exercise the rights to vote of the Member States of the European Union if the Member States exercise their rights to vote and vice versa, and
- (ii) the number of votes cast by the Special Delegation shall in no case exceed the number of Member States of the European Union that are represented at the Diplomatic Conference and that are present at and entitled to participate in the vote.

Rule 34: Required Majorities

- (1) All decisions of all bodies shall be made as far as possible by consensus.
- (2) If it is not possible to attain consensus, the following decisions shall require a majority of two-thirds of the Member Delegations present and voting:
 - (i) adoption by the Conference, meeting in Plenary, of these Rules, and, once adopted, any amendment to them,
 - (ii) decision by any of the bodies to reconsider, under Rule 32, a matter decided,
 - (iii) adoption by the Conference, meeting in Plenary, of the Treaty,

whereas all other decisions of all bodies shall require a simple majority of the Member Delegations present and voting.

- (3) "Voting" means casting an affirmative or negative vote; express abstention or non-voting shall not be counted.

Rule 35: Requirement of Seconding; Method of Voting

- (1) Any proposal for amendment made by a Member Delegation shall be put to a vote only if seconded by at least one other Member Delegation.
- (2) Voting on any question shall be by show of hands unless a Member Delegation, seconded by at least one other Member Delegation, requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the alphabetical order of the names in French of the States, beginning with the Member Delegation whose name shall have been drawn by lot by the Presiding Officer.

Rule 36: Conduct During Voting

- (1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.
- (2) The Presiding Officer may permit a Member Delegation to explain its vote or its abstention, either before or after the voting.

Rule 37: Division of Proposals

Any Member Delegation may move that parts of the Basic Proposal or of any proposal for amendment be voted upon separately. If the request for division is objected to, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Member Delegation seconding 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 amendment shall be considered rejected as a whole.

Rule 38: Voting on Proposals for Amendment

(1) Any proposal for amendment 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 text 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 vote shall be repeated, until either that nomination is adopted or rejected or another person is elected 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, Portuguese, Russian or Spanish, and interpretation shall be provided by the Secretariat into Arabic, Chinese, English, French, Russian and Spanish.

(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 intervention 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 OBSERVERS

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) Observers 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 Observers 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.

[End of document]

AVP/DC/3

December 14, 2011 (Original: English)

BASIC PROPOSAL FOR THE SUBSTANTIVE PROVISIONS OF THE TREATY
TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE

prepared by the Secretariat

EDITOR'S NOTE

Document AVP/DC/3 contains the Basic Proposal for the Substantive Provisions of the Treaty to be Considered by the Diplomatic Conference. It is reproduced on pages 7 to 20 of these Records.

[End of document]

AVP/DC/4

December 14, 2011 (Original: English)

BASIC PROPOSAL FOR ADMINISTRATIVE PROVISIONS AND FINAL CLAUSES OF THE
TREATY TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE

*approved by the Preparatory Committee of the Diplomatic Conference on the Protection of
Audiovisual Performances*

EDITOR'S NOTE

Document AVP/DC/4 contains the Basic Proposal for Administrative Provisions and Final Clauses of the Treaty to be Considered by the Diplomatic Conference. It is reproduced on pages 15 to 20 of these Records.

[End of document]

AVP/DC/5

May 14, 2012 (Original: English)

TECHNICAL AMENDMENT TO ARTICLE 27

Proposal by the Delegation of the European Union

1. The European Union and its Member States propose to slightly amend Article 27 ("Effective Date of Becoming Party to the Treaty") of the Draft Audiovisual Treaty (Administrative and Final provisions) in view of the Diplomatic Conference taking place in Beijing, from June 20 to 26, 2012.
2. The suggested change is of a purely technical nature. It consists in making sure that the text of Article 27 is fully aligned with Article 26, the provision establishing how many ratifications are needed for the future Treaty to enter into force. Article 26 was changed (as compared to the version prepared by the WIPO Secretariat, which was identical to Article 29 of the WPPT) by the Preparatory Committee of the Diplomatic Conference on November 30 to December 1, 2011, in Geneva to take account of the request by the EU and its Member States to replace the term "States" by the term "eligible parties" in order to make sure that the EU's ratification can be counted among those determining the entry into force of the future treaty. Following this amendment to Article 26, paragraph (i) of Article 27 was changed by replacing "State" with "eligible party", but not so the remaining paragraphs of the article, which are still identical to the corresponding provision of the WPPT (Article 30).
3. In order to make sure that Article 27 of the future Treaty is fully in line with Article 26, it is proposed to delete paragraph (iii) – which in Article 30 of the WPPT established a special rule for the EU due to the fact that its ratification was not counted among those determining the entry into force of the Treaty- and to amend paragraph ii) consequently. The proposed drafting of Article 27(ii) is very similar to the Article 28(3) of the Singapore Treaty on Trademarks which, as the future Audiovisual Treaty, does not distinguish between States and other contracting parties when it comes to determining the mechanisms for the entry into force of the Treaty.

Article 27Effective Date of Becoming Party to the Treaty

4. This Treaty shall bind:
 - (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;

- (ii) each other eligible party referred to in Article 26 State from the expiration of three months from the date on which ~~the State it~~ has deposited its instrument of ratification or accession with the Director General of WIPO;
- ~~(iii) the European Union, from the expiration of three months after the deposit of its instrument of ratification or accession if such instrument has been deposited after the entry into force of this Treaty according to Article 26, or, three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;~~
- (iv) any other intergovernmental organization that is admitted to become party to this Treaty, from the expiration of three months after the deposit of its instrument of accession.

[End of document]

AVP/DC/6

May 20, 2012 (Original: English)

ADDITIONAL CLAUSE IN THE PREAMBLE
ANNEX TO DOCUMENT AVP/DC/3

proposal by the Delegation of Brazil

Pursuant to the time limit established for the submission of proposals for the Diplomatic Conference, Brazil would like to submit proposals for an additional clause in the preamble to the basic text for a Treaty on the Protection of Audiovisual Performances as follows:

Additional clause in the Preamble:

“Recalling the 45 recommendations adopted by WIPO Member States in the Development Agenda, particularly those under cluster B, regarding norm setting, flexibilities, public policy and the public domain.”

[End of document]

AVP/DC/7

May 20, 2013 (Original: English)

ADDITIONAL PREAMBULAR CLAUSE RECOGNIZING THE IMPORTANCE OF THE
DEVELOPMENT AGENDA
ANNEX TO DOCUMENT AVP/DC/3*proposal by the European Union and its Member States, Kenya, Mexico, Nigeria, Turkey and
the United States of America*

Submission pursuant to document WO/GA/40/11 on an Additional Preambular Clause
Recognizing the Importance of the Development Agenda.

“Recalling the importance of the Development Agenda and its recommendations for norm-
setting activities within WIPO’s mandate.”

[End of document]

AVP/DC/8

May 20, 2012 (Original: English)

AGREED STATEMENT REAFFIRMING MEMBER STATES COMMITMENT TO THE
AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS
(TRIPS)
ANNEX TO DOCUMENT AVP/DC/3*proposal by Brazil, the European Union and its Member States, Kenya, Mexico, Nigeria, Turkey
and the United States of America*

Submission pursuant to document WO/GA/40/11 on an Agreed Statement reaffirming Member
States commitment to the Agreement on Trade-Related Aspects of Intellectual Property Rights
(TRIPS).

“Contracting Parties recall the Agreement on Trade Related Aspects of Intellectual Property
Rights, including its provisions on objectives, competition policy and enforcement.”

[End of document]

AVP/DC/9

May 20, 2012 (Original: English)

AGREED STATEMENT TO ARTICLE 1 TO CLARIFY THE RELATIONSHIP BETWEEN THE
WIPO PERFORMANCES AND PHONOGRAMS TREATY (WPPT) AND THE WIPO
AUDIOVISUAL PERFORMANCES TREATY UNDER CONSIDERATION AT THE DIPLOMATIC
CONFERENCE

ANNEX TO DOCUMENT AVP/DC/3

*proposal by Brazil, the European Union and its Member States, Kenya, Mexico, Nigeria, Turkey
and the United States of America*

Submission pursuant to document WO/GA/40/11 on the Agreed Statement to Article 1.

"It is understood that nothing in this Treaty shall affect any rights or obligations under the WIPO Performances and Phonograms Treaty (WPPT) or their interpretation and it is further understood that paragraph 3 does not create any obligations for a contracting party to this Treaty to ratify or accede to the WPPT or to comply with any of its provisions."

[End of document]

AVP/DC/10

May 20, 2012

AGREED STATEMENT TO CLARIFY THE RELATIONSHIP BETWEEN ARTICLE 13 AND
ARTICLE 15 OF THE TREATY

ANNEX TO DOCUMENT AVP/DC/3

proposal by Brazil, Mexico and the United States of America

Text for the Agreed Statement to clarify the relationship between Article 13 and Article 15 of the Treaty:

"It is understood that in the absence of voluntary measures taken by rights holders in relation to a particular performance protected under this treaty, nothing in this Article shall prevent a Contracting Party from adopting appropriate measures to permit that a beneficiary of a limitation or exception provided in its national law in accordance with Article 13 may benefit from such limitation or exception where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance. Without prejudice to the legal protections of an audiovisual work in which a performance is fixed, it is further understood

that the obligations under Article 15 are not applicable to performances unprotected concerning the economic rights under the national legislation giving effect to this Treaty, including but not limited to the expiry of the term of protection of the economic rights.”

[End of document]

AVP/DC/11
May 20, 2012

AGREED STATEMENT ON ARTICLE 15 ON TECHNOLOGICAL PROTECTION MEASURES
ANNEX TO DOCUMENT AVP/DC/3

proposal by the European Union and its Member States, Kenya and Nigeria

Submission pursuant to document WO/GA/40/11 on an Agreed Statement on Article 15 on Technological Protection Measures.

“It is understood that in the absence of voluntary measures taken by rights holders in relation to a particular performance protected under this treaty, nothing in this Article shall prevent a Contracting Party from adopting appropriate procedures to ensure that a beneficiary of a limitation or exception provided in its national law in accordance with Article 13, may benefit from such limitation or exception where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance. Without prejudice to the legal protections of an audiovisual work in which a performance is fixed, it is further understood that the obligations under Article 15 are not applicable to performances unprotected or no longer protected under the national legislation giving effect to this Treaty.”

[End of document]

AVP/DC/12
June 21, 2012 (Original: English)

FIRST REPORT OF THE CREDENTIALS COMMITTEE

prepared by the Secretariat

1 The Credentials Committee (hereinafter referred to as “the Committee”), established on June 20, 2012, by the Diplomatic Conference on the Protection of Audiovisual Performances, met on June 21, 2012.

2 The Delegations of the following States, elected members of the Committee by the Diplomatic Conference, attended the meeting: Azerbaijan, China, Japan, Paraguay, Republic of Korea, Slovenia, Zimbabwe.

3 The President of the Committee, elected by the Diplomatic Conference, was Mr. Garikai Kashitiku (Zimbabwe). The Vice-Presidents, elected by the Diplomatic Conference, were Mr. Yan Xiaohong (China), and Mr. Grega Kumer (Slovenia).

4 In accordance with Rule 9(1) of the Rules of Procedure adopted by the Conference on June 20, 2012, (document AVP/DC/2), hereinafter referred to as “the Rules of Procedure”), the Committee examined the credentials, full powers, letters or other documents of appointment presented for the purposes of Rules 6 and 7 by delegations of States members of the World Intellectual Property Organization (hereinafter referred to as “WIPO”), participating in the Conference in accordance with Rule 2(1)(i) of the Rules of Procedure (hereinafter referred to as “Member Delegations”), by the delegation of the European Union participating in the Conference in accordance with Rule 2(1)(ii) of the Rules of Procedure (hereinafter referred to as the “Special Delegation”), as well as by the representatives of intergovernmental and non-governmental organizations, participating in the Conference in accordance with Rule 2(1)(iv) of the Rules of Procedure (hereinafter referred to as “the Observers”).

5. On the basis of the information provided by the Secretariat as to the practice prevailing in other diplomatic conferences and in particular in diplomatic conferences convened by WIPO, the Committee decided to recommend to the Conference, meeting in Plenary, that the following criteria should be applied by the Committee in its examination of, and should govern the decision of the Conference on, the credentials, full powers, letters or other documents presented for the purposes of Rules 6 and 7 of the Rules of Procedure:

- (i) as far as any State is concerned, its delegation’s credentials and full powers should be accepted if they were signed by that State’s Head of State, Head of Government or Minister for Foreign Affairs; credentials, but not full powers, should be accepted if they were contained in a note verbale or letter of that State’s Permanent Representative in Geneva or in a note verbale of that State’s Ministry of Foreign Affairs, its Permanent Mission in Geneva or Embassy in China and should not otherwise be accepted; in particular, a communication emanating from a Minister other than the Minister for Foreign Affairs, should not be treated as credentials;
- (ii) as far as any Organization is concerned, its representative’s letter or other document of appointment should be accepted if it was signed by the Head (Director General, Secretary General or President) or Deputy Head or official responsible for external affairs of the Organization;
- (iii) facsimile and electronic communications or hard copies of originals should be accepted if, as to their source, the requirements stated in points (i) and (ii) were fulfilled.

6. Pending a final decision by the Conference, meeting in Plenary, on the said criteria, the Committee decided to apply those criteria to the documents received by it.
7. Accordingly, the Committee found in order
- (a) as far as Member Delegations are concerned,
- (i) the credentials and full powers (that is, credentials for participating in the Conference and signing the final act, and full powers to sign the treaty to be adopted by the Diplomatic Conference) of the delegations of the following (42) States: Austria, Belgium, Belize, Burkina Faso, Cambodia, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Democratic People's Republic of Korea, Denmark, Ethiopia, Ghana, Greece, Grenada, Guinea, Hungary, Italy, Kenya, Mali, Malta, Mexico, Mongolia, Morocco, Nicaragua, Niger, Poland, Saint Kitts and Nevis, Serbia, Seychelles, Sierra Leone, Singapore, Sudan, Switzerland, The former Yugoslav Republic of Macedonia, Togo, Tunisia, United States of America, Uruguay.
- (ii) the *credentials* (without *full powers*) of the delegations of the following (81) States: Afghanistan, Albania, Algeria, Argentina, Australia, Azerbaijan, Bangladesh, Barbados, Belarus, Benin, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Czech Republic, Croatia, Cyprus, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Fiji, Finland, France, Gambia, Georgia, Germany, Guatemala, Haiti, Honduras, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jamaica, Japan, Jordan, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lithuania, Libya, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Namibia, Nepal, Netherlands, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Republic of Moldova, Russian Federation, Saudi Arabia, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Tonga, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Kingdom, Vanuatu, Viet Nam.
- (b) as far as the *Special Delegation* is concerned, the *credentials* of the Delegation of the European Union (1).
- (c) as far as *Observer Delegations* are concerned, no *credentials* were submitted.
- (d) as far as the *Observers* are concerned, the *letters or documents of appointment* of representatives of the following Observers:
- (i) *intergovernmental organizations*: African Regional Intellectual Property Organization (ARIPO), International Labour Organization (ILO), Benelux

Organization for Intellectual Property (BOIP), World Trade Organization (WTO) (4).

- (ii) *non-governmental organizations*: American Intellectual Property Law Association (AIPLA), Asia-Pacific Broadcasting Union (ABU), Asian Pacific Copyright Association (APCA), Asociación Argentina de Intérpretes (AADI), Central Eastern European Copyright Alliance (CEECA), Coalición por el acceso legal a la cultura (CALC), Conseil National pour la Promotion de la musique traditionnelle du Congo (CNPMT), Copyright Research Information Center (CRIC), European Broadcasting Union (EBU), The European Law Students' Association (ELSA International), Independent Film and Television alliance (IFTA), International Association of Broadcasting (IAB), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Actors (FIA), International Federation of Film Producers Associations (FIAPF), Federación Ibero-latinoamericana de Artistas Intérpretes o Ejecutantes (FILAIE), International Federation of Musicians (FIM), International Video Federation (IVF), International Federation of Reproduction Rights Organizations (IFRRO), Internet Society (ISOC), Latin Artis, Motion Picture Association (MPA) (22).

8. The Committee recommends to the Conference, meeting in Plenary, to accept the credentials and full powers of the delegations mentioned in paragraph (7)(a)(i) and 7(b), above, the credentials of the delegations mentioned in paragraph 7(a)(ii), above, and the letters or documents of appointment of the representatives of the organizations mentioned in paragraph 7(d), above.

9. The Committee expressed the wish that the Secretariat should bring Rule 6 ("Credentials and Full Powers"), 7 ("Letters of Appointment") and 10 ("Provisional Participation") of the Rules of Procedure to the attention of Member Delegations or Observer Delegations not having presented credentials or full powers and of the representatives of Observers not having presented letters or other documents of appointment.

10. The Committee decided that a report on its meeting should be prepared by the Secretariat and issued as its report, to be presented by the President of the Committee to the Conference, meeting in Plenary.

11. The Committee decided that it would re-convene to examine any further communications concerning Member Delegations, the Special Delegation, Observer Delegations, or Observers which might be received by the Secretariat after the close of its meeting.

[End of document]

AVP/DC/13

May 29, 2012 (Original: English)

ADMISSION OF OBSERVERS

prepared by the Secretariat

1. Since the meeting of the Preparatory Committee of the Diplomatic Conference on the Protection of Audiovisual Performances, on November 30 and December 1, 2011, when the list of invitees to the reconvened Diplomatic Conference was approved (AVP/PM/4 and 6), the Director General has received requests from each of the following non-governmental organizations (NGOs) for admission to attend the Diplomatic Conference as observers:

- (i) American Federation of Musicians (AFM);
- (ii) Asian Pacific Copyright Association (APCA); and
- (iii) *Société civile pour l'administration des droit des artistes et musiciens interprètes (ADAMI).*

2. A short profile of each of the NGOs mentioned in paragraph 1, above – its objectives, structure and membership – appears in the Annex of this document. It is proposed that the NGOs mentioned in paragraph 1 be invited to the Diplomatic Conference as “Observers”.

3. *The Diplomatic Conference is invited to take a decision on the proposal appearing in paragraph 2, above.*

[Annex follows]

ANNEX

American Federation of Musicians of the United States of America and Canada

Headquarters: AFM was established in 1896 and is now headquartered in New York, USA.

Objectives: AFM is an international labor organization dedicated to improving lives of professional musicians through collective bargaining, organizing to extend the benefits of unionism, and engaging in political action on matters important to musicians.

Structure: AFM's primary governing body consists of an International Executive Board. This Board includes an International President, an International Vice-President, and a Vice-President, the Secretary-Treasurer, and a five-member Executive Committee.

Membership: AFM represents 90,000 professional musicians.

Asian Pacific Copyright Association (APCA)

Headquarters: The Asian Pacific Copyright Association (APCA) was established in New Zealand, on November 15, 2011.

Objectives: The objective of APCA is to provide a forum for discussion and promoting through legislation, dialogue and education, the maintenance and development of copyright and related rights in the Asian Pacific Region.

Structure: APCA is an unincorporated membership society. Draft statutes permitting registration of APCA as an incorporated membership society with officers consisting of a President, Vice Presidents, Secretary, Treasurer and representatives of APCA National Groups are at present under consideration, with APCA members' voting on adoption of Statutes to take place in 2012.

Members: The present membership of APCA consists of over 70 academics, legal practitioners and copyright society representatives from Australia, China, Fiji, Japan, Republic of Korea, Nauru, New Zealand, Russian Federation and Vanuatu.

Société civile pour l'administration des droits des artistes et musiciens interprètes (ADAMI)

Headquarters: ADAMI was established on February 24, 1955, with headquarters in Paris, France.

Objectives: ADAMI is a French civil collecting society for performers. Its main objectives are to collect and to distribute the equitable remuneration and the private copying remuneration as well as some remuneration issued from the exclusive rights in the audiovisual fields and to defend and develop the performers' rights at the national and international levels.

Structure: The main governing bodies are the Board, the Executive Board and the Executive Committee and the main officers consist of the President, General Secretary and Treasurer.

Members: ADAMI has 27,000 members consisting of performers.

[End of Annex and of document]

AVP/DC/14

June 11, 2012 (Original: English)

DRAFT ADDITIONAL CLAUSE TO BE ADDED IN THE PREAMBLE AND DRAFT AGREED
STATEMENTS ON ARTICLES 1, 2 AND 15
ANNEX TO DOCUMENT AVP/DC/3

Proposal by the Delegation of India

Additional clause to be added in the Preamble

"Recalling the 45 recommendations adopted by WIPO Member States in the Development Agenda, particularly those under cluster B, regarding norm setting, flexibilities, public policy and the public domain."

Draft agreed statement on Article 2 (a): Definitions: Performer

"It is understood that the definition of performer is an inclusive one and covers all audiovisual fixations of the performances."

Draft agreed statement on Article 1: Relation with TRIPS

"Contracting Parties reaffirm their commitments under the Agreement on Trade Related Aspects of Intellectual Property, in particular the provisions on principles, objectives and competition policy."

Draft agreed statement on Article 1: Relation with WPPT

It is understood that paragraph 3 does not create any obligation for Contracting Parties which are not parties to the WIPO Performance and Phonogram Treaty neither to accede to said treaty nor to comply with any of its provisions.

Draft agreed statement on Article 15: Technological Protection Measures

“It is understood that the adequate protection of technological measures applied to a particular audiovisual performance shall not prevent contracting parties from adopting adequate and effective measures necessary to ensure exercise of limitations and exceptions in accordance with Article 13 to that performance and access to performance in the public domain.”

[End of document]

AVP/DC/15

June 23, 2012 (Original: English)

SECOND REPORT OF THE CREDENTIALS COMMITTEE

Prepared by the Secretariat

1. The Credentials Committee (hereinafter referred to as “the Committee”), established on June 20, 2012, by the Diplomatic Conference on the Protection of Audiovisual Performances, met for the second time on June 23, 2012.
2. The Delegations of the following States, elected members of the Committee by the Diplomatic Conference, attended the meeting: Azerbaijan, China, Japan, Paraguay, Slovenia, Zimbabwe (6).
3. The President of the Committee, elected by the Diplomatic Conference, was Mr. Garikai Kashitiku (Zimbabwe). The Vice-Presidents, elected by the Diplomatic Conference, were Mr. Yan Xiaohong (China) and Mr. Grega Kumer (Slovenia) .
4. In accordance with Rule 9 (1) of the Amended Rules of Procedure adopted by the Conference on June 20, 2012 (document AVP/DC/2, hereinafter referred to as “the Rules of Procedure”), the Committee examined the credentials and full powers received since its first meeting on June 21, 2012.
5. The Committee found in order:
 - (a) as far as *Member Delegations* are concerned,
 - (i) the *credentials* and *full powers* (that is, *credentials* for participating in the Conference and signing the Final Act of the Conference, and *full powers* to sign the Treaty to be adopted by the Diplomatic Conference) of the delegations of the following (19) States:

Benin	Mauritania
Burundi	Mauritius
Côte d'Ivoire	Peru
Cyprus	Republic of Moldova
Djibouti	Sao Tomé and Príncipe
Ecuador	Senegal
France	Spain
Jamaica	Syrian Arab Republic
Jordan	Zimbabwe
Madagascar	

- (ii) the *credentials* without full powers to sign the Treaty (that is, *credentials* for participating in the Conference and signing the Final Act of the Conference) of the delegations of the following (11) States:

Austria	Romania
Comoros	Samoa
Cuba	South Africa
India	Swaziland
Myanmar	United Arab Emirates
Nigeria	

The Committee took note of the fact that the delegations of some Member States had indicated that although they had presented credentials, they were not in a position, by virtue of their internal constitutional processes, to sign the Final Act (Belarus, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Thailand). The Committee expressed the wish that any other concerned delegations inform the Secretariat of that fact.

- (b) as far as Observers are concerned, the letters or documents of appointment of representatives of the following (9) non-governmental organizations:

American Federation of Musicians of the United States and Canada (AFM)
Asociación Nacional de Intérpretes (ANDI)
 Association of Commercial Television in Europe (ACT)
 British Copyright Council (BCC)
 Center for Performers' Rights Administration (CPRA) of GEIDANKYO
 International Intellectual Property Alliance (IIPA)
 Knowledge Ecology International (KEI)
Sociedad Argentina de Gestión de Actores Intérpretes (SAGAI)
 Society for Collective Administration of Performer's Rights (ADAMI)

6. The Committee recommends to the Conference, meeting in Plenary, to accept the credentials and full powers of the delegations mentioned in paragraph 5 (a)(i), above, the credentials of the delegations mentioned in paragraph 5 (a)(ii), above and the letters of appointment mentioned in paragraph 5 (b), above.

7. The Committee decided that a report on its meeting should be prepared by the Secretariat and issued as its report, to be presented by the President of the Committee to the Conference, meeting in Plenary.

8. It is recalled that credentials and/or full powers have been submitted by the following Member and Special delegations and were found in order:

(a) the *credentials* and *full powers* (that is, credentials for participating in the Conference and signing the Final Act, and full powers to sign the Treaty to be adopted by the Diplomatic Conference) of the delegations of the following States: Belgium, Belize, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Ecuador, Ethiopia, France, Ghana, Greece, Grenada, Guinea, Hungary, Italy, Jamaica, Jordan, Kenya, Madagascar, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nicaragua, Niger, Peru, Poland, Republic of Moldova, Saint Kitts and Nevis, Sao Tome and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Spain, Sudan, Switzerland, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Togo, Tunisia, United States of America, Uruguay, Zimbabwe (60).

(b) the *credentials* without full powers to sign the Treaty (that is, credentials for participating in the Conference and signing the Final Act) of the following delegations: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Comoros, Croatia, Cuba, Czech Republic, Dominican Republic, Egypt, El Salvador, Estonia, European Union, Fiji, Finland, Gambia, Georgia, Germany, Guatemala, Haiti, Honduras, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Japan, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Libya, Lithuania, Malawi, Malaysia, Maldives, Myanmar, Namibia, Nepal, Netherlands, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Philippines, Portugal, Republic of Korea, Romania, Russian Federation, Samoa, Saudi Arabia, Slovakia, Slovenia, South Africa, Sri Lanka, Swaziland, Sweden, Tajikistan, Thailand, Tonga, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Vanuatu, Viet Nam (81).

[End of document]

AVP/DC/16

June 11, 2012 (Original: English)

DRAFT FINAL ACT

submitted to the Conference, meeting in Plenary, by the Steering Committee

In accordance with the decision by the WIPO General Assembly taken at its fortieth (20th Ordinary) session (September 2011) to hold a Diplomatic Conference on the Protection of Audiovisual Performances, and following the preparations carried out by the

Preparatory Committee of the said Conference and WIPO, as well as the Government of the People's Republic of China, the Diplomatic Conference on the Protection of Audiovisual Performances was convened by WIPO and held in Beijing from June 20 to 26, 2012.

The Diplomatic Conference adopted, on June 24, 2012, the Beijing Treaty on Audiovisual Performances, which was opened for signature on June 26, 2012.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Final Act in Beijing, on June 26, 2012:

[List of countries that will sign the Final Act]

[End of document]

AVP/DC/17

June 24, 2012 (Original: English)

DRAFT BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

Submitted to Main Committees I and II by the Drafting Committee

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Preamble

Article 1: Relation to Other Conventions and Treaties

Article 2: Definitions

Article 3: Beneficiaries of Protection

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Article 5: Moral Rights

Article 6: Economic Rights of Performers in their Unfixed Performances

Article 7: Right of Reproduction

Article 8: Right of Distribution

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- Article 10: Right of Making Available of Fixed Performances
- Article 11: Right of Broadcasting and Communication to the Public
- Article 12: Transfer of Rights
- Article 13: Limitations and Exceptions
- Article 14: Term of Protection
- Article 15: Obligations concerning Technological Measures
- Article 16: Obligations concerning Rights Management Information
- Article 17: Formalities
- Article 18: Reservations and Notifications
- Article 19: Application in Time
- Article 20: Provisions on Enforcement of Rights
- Article 21: Assembly
- Article 22: International Bureau
- Article 23: Eligibility for Becoming Party to the Treaty
- Article 24: Rights and Obligations under the Treaty
- Article 25: Signature of the Treaty
- Article 26: Entry into Force of the Treaty
- Article 27: Effective Date of Becoming Party to the Treaty
- Article 28: Denunciation of the Treaty
- Article 29: Languages of the Treaty
- Article 30: Depositary

Preamble

The Contracting Parties,

Desiring to develop and maintain the protection of the rights of performers in their audiovisual performances in a manner as effective and uniform as possible,

Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the Convention Establishing the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work,

Recognizing the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

Recognizing the profound impact of the development and convergence of information and communication technologies on the production and use of audiovisual performances,

Recognizing the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interest, particularly education, research and access to information,

Recognizing that the WIPO Performances and Phonograms Treaty (WPPT) done in Geneva on December 20, 1996, does not extend protection to performers in respect of their performances fixed in audiovisual fixations,

Referring to the Resolution concerning Audiovisual Performances adopted by the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions on December 20, 1996,

Have agreed as follows:

Article 1

Relation to Other Conventions and Treaties

(1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the WPPT or the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome on October 26, 1961.¹

(2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.

¹ Agreed statement concerning Article 1(1): It is understood that nothing in this Treaty affects any rights or obligations under the WIPO Performances and Phonograms Treaty (WPPT) or their interpretation and it is further understood that paragraph 3 does not create any obligations for a Contracting Party to this Treaty to ratify or accede to the WPPT or to comply with any of its provisions.

(3) This Treaty shall not have any connection with treaties other than the WPPT, nor shall it prejudice any rights and obligations under any other treaties.²

Article 2 Definitions

For the purposes of this Treaty:

(a) “performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;³

(b) “audiovisual fixation” means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device;⁴

(c) “broadcasting” means the transmission by wireless means for public reception of sounds or of images or of images and sounds or of the representations thereof; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

(d) “communication to the public” of a performance means the transmission to the public by any medium, otherwise than by broadcasting, of an unfixed performance, or of a performance fixed in an audiovisual fixation. For the purposes of Article 11, “communication to the public” includes making a performance fixed in an audiovisual fixation audible or visible or audible and visible to the public.

Article 3 Beneficiaries of Protection

(1) Contracting Parties shall accord the protection granted under this Treaty to performers who are nationals of other Contracting Parties.

(2) Performers who are not nationals of one of the Contracting Parties but who have their habitual residence in one of them shall, for the purposes of this Treaty, be assimilated to nationals of that Contracting Party.

² Agreed statement concerning Article 1(3): It is understood that Contracting Parties who are members of the World Trade Organization (WTO) acknowledge all the principles and objectives of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and understand that nothing in this Treaty affects the provisions of the TRIPS Agreement, including, but not limited to, the provisions relating to anti-competitive practices.

³ Agreed statement concerning Article 2(a): It is understood that the definition of “performers” includes those who perform a literary or artistic work that is created or first fixed in the course of a performance.

⁴ Agreed statement concerning Article 2(b): It is hereby confirmed that the definition of “audiovisual fixation” contained in Article 2(b) is without prejudice to Article 2(c) of the WPPT.

Article 4

National Treatment

- (1) Each Contracting Party shall accord to nationals of other Contracting Parties the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty and the right to equitable remuneration provided for in Article 11 of this Treaty.
- (2) A Contracting Party shall be entitled to limit the extent and term of the protection accorded to nationals of another Contracting Party under paragraph (1), with respect to the rights granted in Article 11(1) and 11(2) of this Treaty, to those rights that its own nationals enjoy in that other Contracting Party.
- (3) The obligation provided for in paragraph (1) does not apply to a Contracting Party to the extent that another Contracting Party makes use of the reservations permitted by Article 11(3) of this Treaty, nor does it apply to a Contracting Party, to the extent that it has made such reservation.

Article 5

Moral Rights

- (1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live performances or performances fixed in audiovisual fixations, have the right
- (i) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
 - (ii) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation, taking due account of the nature of audiovisual fixations.
- (2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.
- (3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed.⁵

⁵ Agreed statement concerning Article 5: For the purposes of this Treaty and without prejudice to any other treaty, it is understood that, considering the nature of audiovisual fixations and their production and distribution, modifications of a performance that are made in the normal course of exploitation of the performance, such as editing, compression, dubbing, or formatting, in existing or new media or formats, and that are made in the course of a use authorized by the performer, would not in themselves amount to modifications within the meaning of Article 5(1)(ii). Rights under Article 5(1)(ii) are concerned only with changes that are objectively prejudicial to the

Article 6

Economic Rights of Performers in their Unfixed Performances

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

- (i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and
- (ii) the fixation of their unfixed performances.

Article 7

Right of Reproduction

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in audiovisual fixations, in any manner or form.⁶

Article 8

Right of Distribution

(1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in audiovisual fixations through sale or other transfer of ownership.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer.⁷

Article 9

Right of Rental

(1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in audiovisual fixations as

performer's reputation in a substantial way. It is also understood that the mere use of new or changed technology or media, as such, does not amount to modification within the meaning of Article 5(1)(ii).

⁶ Agreed statement concerning Article 7: The reproduction right, as set out in Article 7, and the exceptions permitted thereunder through Article 13, fully apply in the digital environment, in particular to the use of performances in digital form. It is understood that the storage of a protected performance in digital form in an electronic medium constitutes a reproduction within the meaning of this Article.

⁷ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.

(2) Contracting Parties are exempt from the obligation of paragraph (1) unless the commercial rental has led to widespread copying of such fixations materially impairing the exclusive right of reproduction of performers.⁸

Article 10

Right of Making Available of Fixed Performances

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

Article 11

Right of Broadcasting and Communication to the Public

(1) Performers shall enjoy the exclusive right of authorizing the broadcasting and communication to the public of their performances fixed in audiovisual fixations.

(2) Contracting Parties may in a notification deposited with the Director General of WIPO declare that, instead of the right of authorization provided for in paragraph (1), they will establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or for communication to the public. Contracting Parties may also declare that they will set conditions in their legislation for the exercise of the right to equitable remuneration.

(3) Any Contracting Party may declare that it will apply the provisions of paragraphs (1) or (2) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply the provisions of paragraphs (1) and (2) at all.

Article 12

Transfer of Rights

(1) A Contracting Party may provide in its national law that once a performer has consented to fixation of his or her performance in an audiovisual fixation, the exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation subject to any contract to the contrary between the performer and the producer of the audiovisual fixation as determined by the national law.

⁸ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

(2) A Contracting Party may require with respect to audiovisual fixations produced under its national law that such consent or contract be in writing and signed by both parties to the contract or by their duly authorized representatives.

(3) Independent of the transfer of exclusive rights described above, national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11.

Article 13 Limitations and Exceptions

(1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.

(2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests of the performer.⁹

Article 14 Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

Article 15 Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection

⁹ Agreed statement concerning Article 13: The Agreed statement concerning Article 10 (on Limitations and Exceptions) of the WIPO Copyright Treaty (WCT) is applicable *mutatis mutandis* also to Article 13 (on Limitations and Exceptions) of the Treaty.

with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law.^{10,11}

Article 16

Obligations concerning Rights Management Information

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:

- (i) to remove or alter any electronic rights management information without authority;
- (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, “rights management information” means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation.¹²

Article 17

Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

¹⁰ Agreed statement concerning Article 15 as it relates to Article 13: It is understood that nothing in this Article prevents a Contracting Party from adopting effective and necessary measures to ensure that a beneficiary may enjoy limitations and exceptions provided in that Contracting Party’s national law, in accordance with Article 13, where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance, in circumstances such as where appropriate and effective measures have not been taken by rights holders in relation to that performance to enable the beneficiary to enjoy the limitations and exceptions under that Contracting Party’s national law. Without prejudice to the legal protection of an audiovisual work in which a performance is fixed, it is further understood that the obligations under Article 15 are not applicable to performances unprotected or no longer protected under the national law giving effect to this Treaty.

¹¹ Agreed statement concerning Article 15: The expression “technological measures used by performers” should, as this is the case regarding the WPPT, be construed broadly, referring also to those acting on behalf of performers, including their representatives, licensees or assignees, including producers, service providers, and persons engaged in communication or broadcasting using performances on the basis of due authorization.

¹² Agreed statement concerning Article 16: The agreed statement concerning Article 12 (on Obligations concerning Rights Management Information) of the WCT is applicable *mutatis mutandis* also to Article 16 (on Obligations concerning Rights Management Information) of the Treaty.

Article 18

Reservations and Notifications

- (1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.
- (2) Any notification under Article 11(2) or 19(2) may be made in instruments of ratification or accession, and the effective date of the notification shall be the same as the date of entry into force of this Treaty with respect to the Contracting Party having made the notification. Any such notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the notification.

Article 19

Application in Time

- (1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.
- (3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.
- (4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

Article 20

Provisions on Enforcement of Rights

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.
- (2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

Article 21
Assembly

(1) (a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

(2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

(3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

(4) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.

(5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 22
International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

Article 23

Eligibility for Becoming Party to the Treaty

- (1) Any Member State of WIPO may become party to this Treaty.
- (2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.
- (3) The European Union, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 24

Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 25

Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 26

Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

Article 27

Effective Date of Becoming Party to the Treaty

This Treaty shall bind:

- (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;
- (ii) each other eligible party referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument with the Director General of WIPO;

Article 28**Denunciation of the Treaty**

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 29**Languages of the Treaty**

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 30**Depositary**

The Director General of WIPO is the depositary of this Treaty.

[End of document]

AVP/DC/18

June 24, 2012 (Original: English)

DRAFT BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

Submitted by Main Committees I and II to the Conference, meeting in Plenary

Draft

Beijing Treaty on Audiovisual Performances

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Preamble

The Contracting Parties,

Desiring to develop and maintain the protection of the rights of performers in their audiovisual performances in a manner as effective and uniform as possible,

Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the Convention Establishing the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work,

Recognizing the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments,

Recognizing the profound impact of the development and convergence of information and communication technologies on the production and use of audiovisual performances,

Recognizing the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interest, particularly education, research and access to information,

Recognizing that the WIPO Performances and Phonograms Treaty (WPPT) done in Geneva on December 20, 1996, does not extend protection to performers in respect of their performances fixed in audiovisual fixations,

Referring to the Resolution concerning Audiovisual Performances adopted by the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions on December 20, 1996,

Have agreed as follows:

Article 1

Relation to Other Conventions and Treaties

- (1) Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the WPPT or the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome on October 26, 1961.¹³
- (2) Protection granted under this Treaty shall leave intact and shall in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection.
- (3) This Treaty shall not have any connection with treaties other than the WPPT, nor shall it prejudice any rights and obligations under any other treaties.¹⁴

Article 2

Definitions

For the purposes of this Treaty:

- (a) “performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;¹⁵
- (b) “audiovisual fixation” means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device;¹⁶
- (c) “broadcasting” means the transmission by wireless means for public reception of sounds or of images or of images and sounds or of the representations thereof; such transmission by satellite is also “broadcasting”; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

¹³ Agreed statement concerning Article 1(1): It is understood that nothing in this Treaty affects any rights or obligations under the WIPO Performances and Phonograms Treaty (WPPT) or their interpretation and it is further understood that paragraph 3 does not create any obligations for a Contracting Party to this Treaty to ratify or accede to the WPPT or to comply with any of its provisions.

¹⁴ Agreed statement concerning Article 1(3): It is understood that Contracting Parties who are members of the World Trade Organization (WTO) acknowledge all the principles and objectives of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and understand that nothing in this Treaty affects the provisions of the TRIPS Agreement, including, but not limited to, the provisions relating to anti-competitive practices.

¹⁵ Agreed statement concerning Article 2(a): It is understood that the definition of “performers” includes those who perform a literary or artistic work that is created or first fixed in the course of a performance.

¹⁶ Agreed statement concerning Article 2(b): It is hereby confirmed that the definition of “audiovisual fixation” contained in Article 2(b) is without prejudice to Article 2(c) of the WPPT.

(d) “communication to the public” of a performance means the transmission to the public by any medium, otherwise than by broadcasting, of an unfixed performance, or of a performance fixed in an audiovisual fixation. For the purposes of Article 11, “communication to the public” includes making a performance fixed in an audiovisual fixation audible or visible or audible and visible to the public.

Article 3 Beneficiaries of Protection

- (1) Contracting Parties shall accord the protection granted under this Treaty to performers who are nationals of other Contracting Parties.
- (2) Performers who are not nationals of one of the Contracting Parties but who have their habitual residence in one of them shall, for the purposes of this Treaty, be assimilated to nationals of that Contracting Party.

Article 4 National Treatment

- (1) Each Contracting Party shall accord to nationals of other Contracting Parties the treatment it accords to its own nationals with regard to the exclusive rights specifically granted in this Treaty and the right to equitable remuneration provided for in Article 11 of this Treaty.
- (2) A Contracting Party shall be entitled to limit the extent and term of the protection accorded to nationals of another Contracting Party under paragraph (1), with respect to the rights granted in Article 11(1) and 11(2) of this Treaty, to those rights that its own nationals enjoy in that other Contracting Party.
- (3) The obligation provided for in paragraph (1) does not apply to a Contracting Party to the extent that another Contracting Party makes use of the reservations permitted by Article 11(3) of this Treaty, nor does it apply to a Contracting Party, to the extent that it has made such reservation.

Article 5 Moral Rights

- (1) Independently of a performer’s economic rights, and even after the transfer of those rights, the performer shall, as regards his live performances or performances fixed in audiovisual fixations, have the right:
 - (i) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
 - (ii) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation, taking due account of the nature of audiovisual fixations.

(2) The rights granted to a performer in accordance with paragraph (1) shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the Contracting Party where protection is claimed. However, those Contracting Parties whose legislation, at the moment of their ratification of or accession to this Treaty, does not provide for protection after the death of the performer of all rights set out in the preceding paragraph may provide that some of these rights will, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted under this Article shall be governed by the legislation of the Contracting Party where protection is claimed.¹⁷

Article 6

Economic Rights of Performers in their Unfixed Performances

Performers shall enjoy the exclusive right of authorizing, as regards their performances:

- (i) the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and
- (ii) the fixation of their unfixed performances.

Article 7

Right of Reproduction

Performers shall enjoy the exclusive right of authorizing the direct or indirect reproduction of their performances fixed in audiovisual fixations, in any manner or form.¹⁸

Article 8

Right of Distribution

(1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their performances fixed in audiovisual fixations through sale or other transfer of ownership.

¹⁷ Agreed statement concerning Article 5: For the purposes of this Treaty and without prejudice to any other treaty, it is understood that, considering the nature of audiovisual fixations and their production and distribution, modifications of a performance that are made in the normal course of exploitation of the performance, such as editing, compression, dubbing, or formatting, in existing or new media or formats, and that are made in the course of a use authorized by the performer, would not in themselves amount to modifications within the meaning of Article 5(1)(ii). Rights under Article 5(1)(ii) are concerned only with changes that are objectively prejudicial to the performer's reputation in a substantial way. It is also understood that the mere use of new or changed technology or media, as such, does not amount to modification within the meaning of Article 5(1)(ii).

¹⁸ Agreed statement concerning Article 7: The reproduction right, as set out in Article 7, and the exceptions permitted thereunder through Article 13, fully apply in the digital environment, in particular to the use of performances in digital form. It is understood that the storage of a protected performance in digital form in an electronic medium constitutes a reproduction within the meaning of this Article.

(2) Nothing in this Treaty shall affect the freedom of Contracting Parties to determine the conditions, if any, under which the exhaustion of the right in paragraph (1) applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorization of the performer.¹⁹

Article 9 Right of Rental

(1) Performers shall enjoy the exclusive right of authorizing the commercial rental to the public of the original and copies of their performances fixed in audiovisual fixations as determined in the national law of Contracting Parties, even after distribution of them by, or pursuant to, authorization by the performer.

(2) Contracting Parties are exempt from the obligation of paragraph (1) unless the commercial rental has led to widespread copying of such fixations materially impairing the exclusive right of reproduction of performers.²⁰

Article 10 Right of Making Available of Fixed Performances

Performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in audiovisual fixations, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

Article 11 Right of Broadcasting and Communication to the Public

(1) Performers shall enjoy the exclusive right of authorizing the broadcasting and communication to the public of their performances fixed in audiovisual fixations.

(2) Contracting Parties may in a notification deposited with the Director General of WIPO declare that, instead of the right of authorization provided for in paragraph (1), they will establish a right to equitable remuneration for the direct or indirect use of performances fixed in audiovisual fixations for broadcasting or for communication to the public. Contracting Parties may also declare that they will set conditions in their legislation for the exercise of the right to equitable remuneration.

¹⁹ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

²⁰ Agreed statement concerning Articles 8 and 9: As used in these Articles, the expression "original and copies," being subject to the right of distribution and the right of rental under the said Articles, refers exclusively to fixed copies that can be put into circulation as tangible objects.

(3) Any Contracting Party may declare that it will apply the provisions of paragraphs (1) or (2) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply the provisions of paragraphs (1) and (2) at all.

Article 12 Transfer of Rights

(1) A Contracting Party may provide in its national law that once a performer has consented to fixation of his or her performance in an audiovisual fixation, the exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation subject to any contract to the contrary between the performer and the producer of the audiovisual fixation as determined by the national law.

(2) A Contracting Party may require with respect to audiovisual fixations produced under its national law that such consent or contract be in writing and signed by both parties to the contract or by their duly authorized representatives.

(3) Independent of the transfer of exclusive rights described above, national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11.

Article 13 Limitations and Exceptions

(1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.

(2) Contracting Parties shall confine any limitations of or exceptions to rights provided for in this Treaty to certain special cases which do not conflict with a normal exploitation of the performance and do not unreasonably prejudice the legitimate interests of the performer.²¹

Article 14 Term of Protection

The term of protection to be granted to performers under this Treaty shall last, at least, until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

²¹ Agreed statement concerning Article 13: The Agreed statement concerning Article 10 (on Limitations and Exceptions) of the WIPO Copyright Treaty (WCT) is applicable *mutatis mutandis* also to Article 13 (on Limitations and Exceptions) of the Treaty.

Article 15

Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances, which are not authorized by the performers concerned or permitted by law.^{22,23}

Article 16

Obligations concerning Rights Management Information

(1) Contracting Parties shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right covered by this Treaty:

- (i) to remove or alter any electronic rights management information without authority;
- (ii) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, performances or copies of performances fixed in audiovisual fixations knowing that electronic rights management information has been removed or altered without authority.

(2) As used in this Article, “rights management information” means information which identifies the performer, the performance of the performer, or the owner of any right in the performance, or information about the terms and conditions of use of the performance, and any numbers or codes that represent such information, when any of these items of information is attached to a performance fixed in an audiovisual fixation.²⁴

²² Agreed statement concerning Article 15 as it relates to Article 13: It is understood that nothing in this Article prevents a Contracting Party from adopting effective and necessary measures to ensure that a beneficiary may enjoy limitations and exceptions provided in that Contracting Party’s national law, in accordance with Article 13, where technological measures have been applied to an audiovisual performance and the beneficiary has legal access to that performance, in circumstances such as where appropriate and effective measures have not been taken by rights holders in relation to that performance to enable the beneficiary to enjoy the limitations and exceptions under that Contracting Party’s national law. Without prejudice to the legal protection of an audiovisual work in which a performance is fixed, it is further understood that the obligations under Article 15 are not applicable to performances unprotected or no longer protected under the national law giving effect to this Treaty.

²³ Agreed statement concerning Article 15: The expression “technological measures used by performers” should, as this is the case regarding the WPPT, be construed broadly, referring also to those acting on behalf of performers, including their representatives, licensees or assignees, including producers, service providers, and persons engaged in communication or broadcasting using performances on the basis of due authorization.

²⁴ Agreed statement concerning Article 16: The agreed statement concerning Article 12 (on Obligations concerning Rights Management Information) of the WCT is applicable *mutatis mutandis* also to Article 16 (on Obligations concerning Rights Management Information) of the Treaty.

Article 17
Formalities

The enjoyment and exercise of the rights provided for in this Treaty shall not be subject to any formality.

Article 18
Reservations and Notifications

- (1) Subject to provisions of Article 11(3), no reservations to this Treaty shall be permitted.
- (2) Any notification under Article 11(2) or 19(2) may be made in instruments of ratification or accession, and the effective date of the notification shall be the same as the date of entry into force of this Treaty with respect to the Contracting Party having made the notification. Any such notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General of WIPO or at any later date indicated in the notification.

Article 19
Application in Time

- (1) Contracting Parties shall accord the protection granted under this Treaty to fixed performances that exist at the moment of the entry into force of this Treaty and to all performances that occur after the entry into force of this Treaty for each Contracting Party.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party may declare in a notification deposited with the Director General of WIPO that it will not apply the provisions of Articles 7 to 11 of this Treaty, or any one or more of those, to fixed performances that existed at the moment of the entry into force of this Treaty for each Contracting Party. In respect of such Contracting Party, other Contracting Parties may limit the application of the said Articles to performances that occurred after the entry into force of this Treaty for that Contracting Party.
- (3) The protection provided for in this Treaty shall be without prejudice to any acts committed, agreements concluded or rights acquired before the entry into force of this Treaty for each Contracting Party.
- (4) Contracting Parties may in their legislation establish transitional provisions under which any person who, prior to the entry into force of this Treaty, engaged in lawful acts with respect to a performance, may undertake with respect to the same performance acts within the scope of the rights provided for in Articles 5 and 7 to 11 after the entry into force of this Treaty for the respective Contracting Parties.

Article 20
Provisions on Enforcement of Rights

- (1) Contracting Parties undertake to adopt, in accordance with their legal systems, the measures necessary to ensure the application of this Treaty.

(2) Contracting Parties shall ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.

Article 21 Assembly

(1) (a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

(2) (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 23(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

(3) (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

(4) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.

(5) The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 22
International Bureau

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty.

Article 23
Eligibility for Becoming Party to the Treaty

- (1) Any Member State of WIPO may become party to this Treaty.
- (2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.
- (3) The European Union, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 24
Rights and Obligations under the Treaty

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 25
Signature of the Treaty

This Treaty shall be open for signature at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 26
Entry into Force of the Treaty

This Treaty shall enter into force three months after 30 eligible parties referred to in Article 23 have deposited their instruments of ratification or accession.

Article 27
Effective Date of Becoming Party to the Treaty

This Treaty shall bind:

- (i) the 30 eligible parties referred to in Article 26, from the date on which this Treaty has entered into force;

(ii) each other eligible party referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument with the Director General of WIPO;

Article 28

Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 29

Languages of the Treaty

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to in paragraph (1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, "interested party" means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 30

Depositary

The Director General of WIPO is the depositary of this Treaty.

[End of document]

AVP/DC/19

June 25, 2012 (Original: English)

REPORT OF THE PRESIDENT OF THE CREDENTIALS COMMITTEE

prepared by the Secretariat

1. Since the meetings of the Credentials Committee on June 21 and 23, 2012 (see documents AVP/DC/12 and 15), the full powers of the Delegations of Cameroon, Haiti, Namibia and Zambia have been received.

2. As far as Observers are concerned, the letters of appointment of representatives of the following non-governmental organizations: National Association of Commercial Broadcasters in

Japan (NAB-Japan) and International Federation of the Phonographic Industry (IFPI) have been received.

[End of document]

AVP/DC/20

June 24, 2012 (Original: English)

BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

adopted by the Diplomatic Conference on June 24, 2012

EDITOR'S NOTE

Document AVP/DC/20 contains the Beijing Treaty on Audiovisual Performances as adopted by the Diplomatic Conference. It is reproduced from page 21 of these Records.

[End of document]

AVP/DC/21

June 26, 2012 (Original: English)

FINAL ACT

adopted by the Diplomatic Conference on June 24, 2012

EDITOR'S NOTE

The text of this document is reproduced on page 53.

[End of document]

AVP/DC/22

July 9, 2012 (Original: English)

SIGNATURE OF THE BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

*Memorandum by the Secretariat***EDITOR'S NOTE**

The information contained in this document can be found on page 46.

[End of document]

TEXT OF THE CONFERENCE DOCUMENTS OF THE "AVP/DC/INF" SERIES

AVP/DC/INF1

May 31, 2012 (Original: English)

GENERAL INFORMATION

prepared by the International Bureau

INTRODUCTION

The Diplomatic Conference on the Protection of Audiovisual Performances will take place in Beijing, China, from Wednesday, June 20 to Tuesday, June 26, 2012, and will open at 10 a.m. on the first day.

CONFERENCE VENUE

The Diplomatic Conference will take place in the China World Hotel of the China World Trade Centre (CWTC), 1 Jian Guo Men Wai Avenue, Beijing, China. For further information please visit the following webpage <http://www.cwtc.com>.

REGISTRATION

Conference photo badges will be issued to accredited participants at the Registration Desk (1 Arcade Level, China World Hotel) on presentation of the online registration e-mail (or confirmation number), a copy of credentials or nomination letter and photo I.D. Should the credentials (letter of appointment for IGO and NGO representative) not have been transmitted to WIPO in advance, please present the original of the document/letter to the WIPO Secretariat at the Diplomatic Conference venue.

The Registration Desk will be open from 10 a.m. to 10 p.m. on Tuesday, June 19 for pre-registration and badge pick up. To avoid delays on the opening morning of the conference, delegates are encouraged to collect their badges during pre-registration. For those not able to do so, however, the Registration Desk will open on Wednesday, June 20 at 8 a.m.

ACCESS TO THE CONFERENCE VENUE

When entering the conference venue, participants will be subjected to security screening by security personnel, similar to that experienced in airports (i.e. x-ray tunnels and walk-through metal detectors). Please arrive early enough to allow time for this procedure.

HOURS OF MEETINGS

Session Schedule: from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., unless otherwise indicated.

INTERPRETATION

Simultaneous interpretation will be provided in English, Arabic, Chinese, French, Russian and Spanish, and from Portuguese into the other six languages.

PREPARED SPEECHES

The task of the Secretariat, and in particular that of the interpreters, would be greatly facilitated if speakers could send a copy of the statement(s) to the Secretariat, prior to the Conference to the following e-mail address: copyright.mail@wipo.int. Otherwise, copies of statements (even handwritten) should be handed to the Conference Officer as early as possible during the Conference.

DOCUMENT CENTER

The Conference Documents Center is situated on level 1 (ground floor) of the China World Hotel, outside the plenary session meeting rooms.

INFORMATION DESK

The Conference Information Desk is situated on level 1 (ground floor) of the China World Hotel, outside the plenary session meeting rooms. The Information Desk will be open as of Tuesday June 19, at 9 a.m. Telephone and fax numbers for the Information Desk will be confirmed closer to the opening date of the Conference.

INTERNET CAFE

Delegates and participants may use the Internet Cafe provided by the Conference on the B1 level (underground level) of the China World Hotel during meeting hours. A free Wi-Fi service will also be provided to delegates and participants during the conference.

RECEPTION

A joint reception will be organized by WIPO, the National Copyright Administration of the People's Republic of China and the Beijing People's Municipal Government on Wednesday, June 20, 2012 at 6:30 p.m. in the China World Hotel (Level 1 Foyer).

SIDE EVENTS

WIPO Creative Awards Ceremony & China International Copyright Expo (CICE) Opening Ceremony

Date: June 21, 2012

Time: 7.30 to 9.30 p.m. (7.30 to 7.45 p.m. for the CICE Opening)

Ceremony: 7.45 to 9.30 p.m. for the Awards Ceremony and concert

Venue: The Great Hall of the People (transportation for delegates and participants to be confirmed during the Conference).

China International Copyright Expo (CICE)

Date: June 22 to 24, 2012

Time: 9 a.m. to 5 p.m.

Venue: The Exhibition Hall, China World Trade Centre (CWTC)

The CICE is being organized by the Chinese Government during the Diplomatic Conference, and will be held at the Exhibition Hall (next to the China World Hotel) of the CWTC. It is open to the public from June 22 to 24, 2012, 9.30 a.m. to 5 p.m. Delegates are welcome to visit the exhibition and can enter by presenting their accreditation badges at the entrance to the exhibition. To attend the exhibition, please seek the assistance of hotel staff.

ENTRY REQUIREMENTS FOR CHINA

Delegates, representatives of observer organizations and other participants are responsible to arrange for their own visas. As a general rule, the delegates, representatives of observer organizations and other participants are required to obtain their China entry visas at the Embassies or Consulates of China in their respective countries. They should be in possession of valid entry visas before commencing their travel. Please contact the Embassy or Consulate of China in your country of residence so as to know about the visa requirements in your specific case. For your reference, a list of agreements on mutual visa exemption between the People's Republic of China and foreign countries is available under the following link:

http://www.wipo.int/export/sites/www/dc2012/en/pdf/mutual_visa_exemption_agreements.pdf

ACCOMMODATION

The Government of China has obtained special room rates at nine hotels, located nearby the venue, for delegates attending the Diplomatic Conference. For detailed information on available rates and room types please visit the following link:

<http://www.wipo.int/dc2012/en/accommodation.html>

TRANSPORTATION FROM BEIJING INTERNATIONAL AIRPORT FOR ALL DELEGATES

The Chinese Government will provide a shuttle service to all delegates to the Diplomatic Conference on June 18 and 19 at Terminal 1 (T1), Terminal 2 (T2) and Terminal 3 (T3) of the Beijing International Airport from 6:00 a.m. to 12:00 midnight. Delegates arriving at the Beijing International Airport on June 18 or 19 shall approach the Information Desk of the Diplomatic Conference at the exit of the international arrivals. After presenting the invitation letter from WIPO and the passport delegates will be offered transportation to any of the nine designated hotels available on WIPO website, including the China World Hotel.

Please note that no shuttle service will be provided for the departure from Beijing (return flights).

PUBLIC TRANSPORT

Public Bus Services

Public buses run from 6 a.m. to 12 midnight daily. Bus fares cost RMB 1 Yuan to RMB 3 Yuan for non-air-conditioned buses, and RMB 2 Yuan to RMB 6 Yuan for air-conditioned buses.

Subway Station

The Guomao Subway Station 国贸地铁站 located in front of the CWTC, is an underground subway station on Beijing Subway Line 1 地铁1号线 and an interchange with Line 10 地铁10号线. The Guomao Station is often packed with commuters, especially during rush hours. Both lines (Line 1 running west-east and Line 10 running north-south) are in huge demand throughout the week. This is eased by the extremely wide platforms on the Line 10 part of Guomao Station.

Please note that public transports are at participants' own expense.

TAXI SERVICES

Taxi Services 出租车 are available at hotels, and hotel staff can assist in ordering a taxi for you. At street level in Beijing, you can also flag down a taxi to the Conference venue or other destinations. Taxis are also available at the Conference venue. Please note that tipping taxi drivers in Beijing is not the custom.

Please note that taxi services are at participants' own expense.

TELEPHONE AND COMMUNICATIONS

During meeting hours, local calls can be made at the Conference Information Desk. Outside meeting hours, calls and faxes can be made at the Business Center of the China World Hotel (or other hotels) for a fee. For participants using mobile telephones, China has two major service providers: China Mobile Limited offers two mobile telephone networks – GSM(2G) and TD-CDMA(3G); and China Unicom (BVI) Limited offers two mobile telephone networks – GSM(2G) and WCDMA(3G). For Internet access, delegates may use the Internet Cafe on the B1 level of the China World Hotel during meeting hours.

MISCELLANEOUS INFORMATION

China emergency telephone numbers:

Police: 110

Ambulance: 120

Telephone number information: 114

Weather: 121

Climate:

June is one of the nicest seasons in Beijing, with daytime temperatures ranging from 18.89°C/ 66°F to 30.56°C/ 87°F (based on meteorological averages).

Local Time and Electricity:

The local time for Beijing is GMT + 8 hours. Electricity in China uses 220V, 50Hz.

Currency:

China's local currency is the Renminbi (RMB) or Chinese Yuan (CNY). Its basic unit is the Yuan. The exchange rate is approximately US\$1 = 6.25 Yuan (subject to change). There are currency exchange counters in the arrival area of the International Airport and in the hotels.

CONFERENCE DOCUMENT AVP/DC/INF1

TENTATIVE TIMETABLE FOR THE DIPLOMATIC CONFERENCE

It is proposed that the following agenda items be considered on the following days. Please note that any of the agenda items may be called up on any of the days from June 20 to 26, 2012, subject to a decision by the Chair(s), in accordance with the Rules of Procedure.

Wednesday, June 20, 10 a.m.	Plenary: Agenda item 1, 2, 3, 4, 5, 6, 7, 8, 10
Wednesday, June 20, 3 p.m.	Plenary: Agenda item 10
Thursday, June 21, 10 a.m.	Credentials Committee Main Committee I
Thursday, June 21, 3 p.m.	Plenary: Agenda item 10
Friday, June 22, 10 a.m.	Main Committee I Drafting Committee
Friday, June 22, 3 p.m.	Plenary: Agenda item 9 Main Committee I
Saturday, June 23, 10 a.m.	Main Committee II
Saturday, June 23, 3 p.m.	Main Committee II Drafting Committee
Sunday, June 24, 10 a.m.	Credentials Committee Main Committee II
Sunday, June 24, 3 p.m.	Main Committee I Main Committee II
Monday, June 25, 10 a.m.	Plenary: Agenda item 12 Main Committee I
Monday, June 25, 3 p.m.	Drafting Committee
Tuesday, June 26, 10 a.m.	Plenary: Agenda item 11, 13,14,15,16
Tuesday, June 26, 3 p.m.	Signature ceremony: Final Act and Treaty

Note: Below are the issues of the Agenda (document AVP/DC/1)

1. Opening of the Conference by the Director General of WIPO
2. Consideration and adoption of the Rules of Procedure
3. Election of the President of the Conference
4. Consideration and adoption of the agenda
5. Election of the Vice-Presidents of the Conference
6. Election of the members of the Credentials Committee
7. Election of the members of the Drafting Committee
8. Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee
9. Consideration of the first report of the Credentials Committee
10. Opening declarations by Delegations and by representatives of Observers
11. Consideration of the texts proposed by the Main Committees
12. Consideration of the second report of the Credentials Committee
13. Adoption of the Treaty
14. Adoption of any recommendation, resolution, agreed statement or final act
15. Closing declarations by Delegations and by representatives of Observers
16. Closing of the Conference by the President

[End of document]

AVP/DC/INF/2

November 7, 2012 (Original: English)

LIST OF PARTICIPANTS

*prepared by the Secretariat***EDITOR'S NOTE:**

Document IAVP/DC/INF/2 contains the List of Participants of the Diplomatic Conference. It is reproduced between pages 211 and 268 of these Records.

[End of document]

AVP/DC/INF/3

June 20, 2012 (Original: Français/English)

BUREAUX, COMMISSIONS ET COMITÉS

OFFICERS AND COMMITTEES

CONFÉRENCE/CONFERENCE

Président/President

Binjie Liu (Chine/China)

Vice-présidents/Vice-Presidents

Steve Rowan

(Royaume Uni/United Kingdom)

Mario Matus

(Chili/Chile)

Alireza Jahangiri

(Iran (République islamique d'))/

Iran (Islamic Republic of))

Marisella Ouma (Mme/Ms.)

(Kenya)

Lilia Bolocan (Mme/Ms.)

(République de Moldova/

Republic of Moldova)

Marco Antonio Morales Montes

(Mexique/Mexico)

Ivan Bliznets

(Fédération de Russie/Russian

Federation)

Secrétaire/Secretary

Mr. CLARKE (OMPI/WIPO)

COMMISSION DE VÉRIFICATION DES POUVOIRS/CREDENTIALS COMMITTEE

Membres/Members

Azerbaïdjan/Azerbaijan
 Chine/China
 Japon/Japan
 Paraguay
 République de Corée/Republic of Korea
 Slovénie/Slovenia
 Zimbabwe

Bureau/Officers

Président/President Garikai Kashitiku	(Zimbabwe)
Vice-présidents/Vice-Presidents Yan Xiaohong Grega Kumer	(Chine/China) (Slovénie/Slovenia)
Secrétaire/Secretary Christine Castro-Hublin (Mme/Ms.)	(OMPI/WIPO)

COMMISSION PRINCIPALE I/MAIN COMMITTEE I

Président/President Manuel Guerra Zamarro	(Mexique/Mexico)
Vice-présidents/Vice-Presidents Sue Williams (Mme/Ms.) Mihály Zoltán Ficsor	(Royaume-Uni/United Kingdom) (Hongrie/Hungary)
Secrétaire/Secretary Michele Woods (Mme/Ms.)	(OMPI/WIPO)

COMMISSION PRINCIPALE II/MAIN COMMITTEE II

Président/President Justin Hughes	(Etats-Unis d'Amérique/United States of America)
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	States of America)
Vice-présidents/Vice-Presidents Laura Harbidge (Mme/Ms.) Alireza Jahangiri	(Royaume-Uni/United Kingdom) (Iran (République islamique d')/ Iran (Islamic Republic of)
Secrétaire/Secretary Edward Kwakwa	(OMPI/WIPO)

COMITÉ DE RÉDACTION/DRAFTING COMMITTEE

Membres/Members

Estanislau Amaral	(Brésil/Brazil)
Tang Zhaozhi	(Chine/China)
Wang Qian	(Chine/China)
Shira Perlmutter	(Etats-Unis d'Amérique/United States of America)
Mokhtar Warida	(Égypte/Egypt)
Jaime de Mendoza Fernández	(Espagne/Spain)
Jukka Liedes	(Finlande/Finland)
Anne Le Morvan (Mme/Ms.)	(France)
Giga Kobaladze	(Géorgie/Georgia)
Mahmoud Khoubkar	(Iran (République islamique d')/ Iran (Islamic Republic of))
Martin Moscoso	(Pérou/Peru)
Laura Harbidge (Mme/Ms.)	(Royaume Uni/United Kingdom)
Vladimir Marić	(Serbie/Serbia)
Thaddaeus Kai Yuen Hoo	(Singapour/Singapore)
Kelly Yona (Mme/Ms.)	(Suisse/Switzerland)
Liu Zhenmin	(Chine/China)

Ex officio

Le président de la Commission principale I/The President of Main Committee I

Le président de la Commission principale II/The President of Main Committee II

Bureau/Officers

Président/President Jukka Liedes	(Finlande/Finland)
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Vice-présidents/Vice-Presidents

Liu Zhenmin

(Chine/China)

Secrétaire/Secretary

Victor Vazquez

(OMPI/WIPO)

COMITÉ DIRECTEUR/STEERING COMMITTEE

Ex officio

Le président de la conférence/The President of the Conference

Les vice-présidents de la conférence/The Vice-Presidents of the Conference

Le président de la Commission de vérification des pouvoirs/The President of the
Credentials Committee

Le président de la Commission principale I/The President of Main Committee I

Le président de la Commission principale II/The President of Main Committee II

Le président du Comité de rédaction/The President of the Drafting Committee

Secrétaire/Secretary

Trevor Clarke

(OMPI/WIPO)

[Fin du document/End of document]

SUMMARY MINUTES OF THE CONFERENCE

SUMMARY MINUTES OF THE CONFERENCE

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SUMMARY MINUTES OF THE PLENARY

SUMMARY MINUTES OF THE PLENARY

prepared by the International Bureau

President: Mr. Liu BINJIE (China)

Secretary: Mr. Trevor CLARKE (Assistant Director General of WIPO) (WIPO)

First Meeting Wednesday, June 20, 2012 Morning
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Agenda item 1: Opening of the Conference by the Director General of WIPO

1. Mr. GURRY (Director General of WIPO) welcomed the participants to the opening plenary session of the Diplomatic Conference on the Protection of Audiovisual Performances. He noted that several delegations present had expressed their gratitude to the World Intellectual Property Organization (WIPO) and to the People's Republic of China for the outstanding arrangements and generous support, which had enabled their participation in the Diplomatic Conference. Mr. GURRY highlighted the importance of the Conference for multilateralism, and especially for WIPO's role in multilateral rulemaking in the field of intellectual property. Finally, he thanked Member States for their solidarity with audiovisual performers.

Agenda item 2: Consideration and Adoption of the Rules of Procedure

2. Mr. GURRY (Director General of WIPO) proposed to modify the Rules of Procedure as set out in document AVP/DC/2, based on consultations, which had been carried out among regional coordinators and various delegations. He proposed that the number of elected members of the Drafting Committee established in Rule 13.2 should be amended to allow 16 members in the Drafting Committee instead of 12.

3. *The Conference adopted by acclamation the Rules of Procedure with the modification proposed by the Director General.*

Agenda item 3: Election of the President of the Conference

4. Mr. GURRY (Director General of WIPO) invited the delegations to turn to the next item on the Agenda, the election of the President of the Conference.

SUMMARY MINUTES OF THE PLENARY

5. Mr. KHOUBKAR (Iran (Islamic Republic of)), speaking on behalf of the Asian Group, proposed that Mr. Liu Binjie, Minister of the National Copyright Administration of China (NCAC), be elected for the presidency of the Diplomatic Conference.
6. Mr. RIZK (Egypt), speaking on behalf of the African Group, supported the proposal made by the Delegation of Iran (Islamic Republic of).
7. Mr. MARTINEZ (Paraguay), speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), supported the proposal made by the Delegation of Iran (Islamic Republic of).
8. Ms. KING (United States of America), speaking on behalf of Group B, supported the nomination of Mr. Liu Binjie (China) as President of the Diplomatic Conference.
9. *The Diplomatic Conference elected Mr. LIU Binjie (China) as President of the Conference.*
10. The PRESIDENT, as head of the Delegation of the host country, welcomed and thanked the delegates for his election and the trust placed in him. Additionally, he noted that the participation in the Diplomatic Conference included not only government representatives and WIPO officers, but also performers and producers, as well as other stakeholders from the performance sector.
11. The PRESIDENT acknowledged the long-term work and tremendous efforts that had been made by international organizations, Member States and other parties along the way to the Diplomatic Conference. He also stressed that the two international conventions concerning the protection of performers' rights – the Rome Convention adopted in 1961 and the WIPO Performances and Phonograms Treaty (WPPT) adopted in 1996 – were no longer sufficient to protect the rights of audiovisual performances. He noted that in 1996, WIPO had commenced diplomatic negotiations to improve the protection of audiovisual performances by protecting performers' voices and images, and that in the year 2000, WIPO held the first Diplomatic Conference in this area. However, due to divergences on the transfer of rights from performers to producers, the Conference did not achieve the expected goals and the Treaty was not concluded. The President stressed that the present Diplomatic Conference demonstrated the common efforts, cooperation and relentless work of all parties involved. He pointed out that the film industry had become more and more globalized; it was a perfect example of industrial development and innovation. He mentioned the productions made in Hollywood, Bollywood and Nollywood as examples. He observed that the trends and numbers of audiovisual productions had demonstrated the industry's capacity to contribute to economic growth and employment. He concluded by adding that the audiovisual sectors' growth and the conclusion of the Treaty was in the interest of all parties.

Agenda item 4: Consideration and adoption of the agenda

12. The PRESIDENT opened the floor for discussion on the Agenda as set out in document AVP/DC/1. He noted that no comment was raised.
13. *The Diplomatic Conference unanimously adopted the agenda.*

Discussion on Document AVP/DC/13

14. The PRESIDENT turned to item six of the Agenda and invited the WIPO Secretariat to explain an item that required discussion and adjustment by the delegates.

15. Mr. KWAKWA (Secretariat) clarified that the item to be discussed referred to the participants with the status of Observers and not to the Credentials Committee. He drew the delegates' attention to document AVP/DC/13, entitled "Admission of Observers". He pointed out that after the Preparatory Committee meetings held in Geneva on November 30, 2011 and December 1, 2011, four additional requests from non-governmental organizations to be admitted as Observers to the Diplomatic Conference had been received. The objectives, structures and membership of three of these four non-governmental organizations – namely, the American Federation of Musicians (AFM), the Asian Pacific Copyright Association (APCA), and the Society for Collective Administration of Performer's Rights (ADAMI) – were explained in document AVP/DC/13. He invited the Delegation of Argentina to provide the same information for the last of the non-governmental organizations requesting admission as an Observer, the Argentinean Society of Actors and Interpreters (SAGAI). He concluded by inviting the Diplomatic Conference to admit all four non-governmental organizations with Observer status.

16. Ms. LÓPEZ GILLI (Argentina) provided additional information to be added to document AVP/DC/13 regarding SAGAI.

17. *The Diplomatic Conference unanimously agreed to admit the four non-governmental organizations with Observer status.*

Agenda item 5: Election of the Vice-Presidents of the Conference

18. The PRESIDENT invited the delegations to turn to item five of the Agenda and invited the WIPO Secretariat to provide the necessary information regarding the Credentials Committee.

19. Mr. KWAKWA (Secretariat) read the list of proposed Delegations for the Credentials Committee: Azerbaijan, China, Japan, Paraguay, the Republic of Korea, Slovenia, and Zimbabwe. Further consultations would take place regarding the proposed delegations. He invited the delegates to move to Agenda item number 8, namely, the election of the officers of the Credentials Committee.

Agenda item 8: Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee

20. Mr. KWAKWA (Secretariat) presented the list of proposed officers: President, Mr. Garikai KASHITIKU (Zimbabwe) and Vice-Presidents, Mr. Xiaohong YAN (China) and Mr. Grega KUMER (Slovenia).

21. *The Diplomatic Conference unanimously elected the officers of the Credentials Committee, the Main Committees and the Drafting Committee.*

Agenda item 10: Opening declarations by Delegations and by representatives of Observer Entities

22. The PRESIDENT indicated that according to the Agenda of that morning, some items had been postponed to the afternoon session. He invited the delegations to move to the General Declarations of the Diplomatic Conference and asked the WIPO Secretariat to explain the procedure for declarations.

23. Mr. CLARKE (Assistant Director General of WIPO) indicated that in order to take the floor for opening statements, a requesting form should be completed and given to the WIPO Secretariat. He also invited the delegates to provide a copy of their statements before their interventions, to assist the WIPO Secretariat and the interpreters with their tasks. He provided the e-mail address: copyright.mail@wipo.int.

24. The PRESIDENT opened the floor for opening declarations and invited two artists to speak before the interventions of the delegations. He invited Ms. Ferne Downey to take the floor.

25. Ms. DOWNEY (FIA) urged the Delegates to conclude the Treaty, pointing out that the rights of audiovisual performers to protect their image, and to be paid for their work, was not recognized by international law. She stressed that performers from every corner of the globe needed to be empowered and supported, in order to commit to the life of professional artists and to make a living wage. She explained that she was paid with an hourly wage, royalties and use fees. She quoted Bernard Cowan, a Canadian performer, who stated: "Your performance once given is gone. If recorded, it will live forever. And for that, you should be paid." She stressed that unfortunately, while digital technology had empowered artists, it had also left them more vulnerable than ever, which was why it was so critical to have an international mechanism to safeguard their rights. Without it, audiovisual performers were finding that their work was being exploited and stolen and that their images were being used in ways that they would never have chosen. She explained that if artists were to achieve their creative potential, they must be compensated fairly for their efforts. Those who used the work should also respect the integrity of the artistic creation. She called the delegations' attention to the fact that artists could benefit from ongoing returns from content after they had created it, but only if they were able to hold on to their rights over their performances, which was what had brought them that day to Beijing. She pointed out that what was to happen during that week would affect the lives of performers all over the globe. The creation of an audiovisual treaty to give performers economic and moral rights in their work should be taken to the level of international law. She informed the delegates that they would help to make content accessible to audiences, while giving those who created the content the compensation and control they needed to keep on creating. They would also help new business models to flourish and enable audio/video content to be a driver of the global creative economy. She recognized that the WPPT had made a difference to millions of audiences, by allowing artists to work as professionals, and make music that makes people laugh, cry, and dance. She stressed that a WIPO Audiovisual Performances Treaty should do the same thing for audiovisual performers and that all performers around the globe deserved to be fairly compensated and protected for the work they did. She added that it was the time for an international treaty that recognized that truth. She concluded by urging the delegates to make a bold step and a brave choice by concluding the Treaty and recognizing the rights of audiovisual performers. She asked that they be given the tools they needed to keep telling their shared stories and that they be included in the digital revolution and in the global exchange of ideas.

26. The PRESIDENT invited Mr. Bauchio Mei to take the floor.

27. Mr. MEI (China) introduced himself to the Conference as a performer from the Peking Opera, the son of Mr. Lung Fong Mei, a well-known Peking Opera performer. He mentioned that his works had been disseminated through different media, making him popular at home and abroad, and had helped with the spread of Chinese culture. He regretted that, for different reasons, the rights of performers had not been given adequate protection and recognition through international instruments. He concluded by urging all the delegates to fulfill their responsibility on the issue of the rights of performers.

28. Mr. ZVEKIĆ (Serbia) stated that as they prepared for the conference in a spirit of consensus and mutual cooperation, he noted that many of the present delegates participated in the suspended 2000 Diplomatic Conference. The continuation of the Diplomatic Conference opened with a strong mandate to conclude a treaty based on the recommendation approved at the 40th session of the WIPO General Assemblies held from September 26 to October 5, 2011. The decision of the General Assembly to hold the Diplomatic Conference on protection of Audiovisual Performance broke a deadlock of more than 11 years. The General Assembly provided a clear mandate to that Diplomatic Conference to move ahead with the understanding that that Conference would adopt the 19 articles agreed to in the 2000 Diplomatic Conference, including their respective agreed statements. The new proposed Article 12 was agreed by consensus in the Standing Committee on Copyright and Related Rights (SCCR). Three additional agreed statements related to articles 1, 2, and 15, and one additional preamble statement were included together with the administrative and financial provisions of the draft treaty. He thanked all Member States for their extraordinary engagement and for endorsing these mandates of the General Assembly. He urged the diplomatic delegations to agree rapidly on the few issues left open for discussion to assure a swift outcome. He looked forward to the successful and timely outcome of the Diplomatic Conference. The positive outcome of that Conference would set an example and contribute to steering future meetings of the Assemblies to successful outcomes on the pending issues through mutual trust, understanding, and constructive engagement.

29. The PRESIDENT invited the Diplomatic Conference to watch a video containing a message from several actors hoping for the successful conclusion of the Diplomatic Conference.

[a video was played in the room]

30. Mr. YAN (China) said that the Diplomatic Conference was an important diplomatic event for the international IP community. He made reference to the approved agenda of the Conference, and he highlighted the progress made towards concluding a treaty. The substantive and administrative articles had been the object of preliminary consensus. He called on all delegates to join the efforts to deepen the understanding of the matters under discussion, with a view to reaching consensus and successfully concluding the Treaty.

31. Mr. REVES (United States of America), speaking on behalf of Group B, recalled that the objective of the Conference was to conclude a treaty that had been first negotiated at the Diplomatic Conference in 2000. Of the 20 Articles in the Treaty, only one, Article 12 dealing with the transfer of rights from performers to producers, had led to the suspension of negotiations in

2000. In 2010, after an extended period of inactivity, the WIPO Secretariat had asked members of the Standing Committee on Copyright and Related Rights (SCCR) to submit proposals for Article 12. Based on those submissions, several delegations had achieved a comprehensive solution on the transfer of rights provision, making it sufficiently flexible to adapt to different international laws. The solution resulted in the General Assembly in 2011 reconvening the Diplomatic Conference. With the work on Article 12 completed, and the provisional agreement from 2000 on the other articles, the Conference was in a position to conclude the Treaty. Reaching a successful conclusion would reinforce WIPO's role as the global leader in intellectual property normative activity, and would prove that the multilateral system worked when delegations engaged constructively to solve problems.

32. Mr. MARTINEZ (Paraguay), speaking on behalf of GRULAC, expressed his support and wishes for the utmost success of the Conference and the adoption of the Treaty. The General Assembly of WIPO had decided to organize a Diplomatic Conference on the Protection of Audiovisual Performances because of a previous agreement reached in June 2011. That agreement included the adoption of the 19 Articles provisionally agreed on in 2000, the adoption of a new Article 12 accepted by consensus, and three additional statements to be drafted in relation to Articles 1, 2 and 15 in order to reflect the concerns of some Member States. Those declarations served to: clearly identify the commitment of Member States under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the scope of national legislation, clarify the relationship between the instrument to be adopted and the WPPT, provide a better definition of performers covered by the Treaty, and make a clear identification of the relationship between Articles 13 and 15. Finally, the Agreement also included, in the Preamble, an additional paragraph regarding the importance of the WIPO Development Agenda. GRULAC understood that the protection of performers at the national level was a clear reflection of the commitment to protect the beneficiaries and in particular the less well-known performers. The Treaty established a clearer legal basis for the use of performances both in traditional media and on new platforms, such as new digital platforms. It would also protect international performers against the non-authorized use of their performances on platforms such as television, cinema and video. GRULAC recognized the importance of the cultural and intellectual contribution of performers to the world and hoped that the Treaty adopted would serve to further enhance their contribution, beyond economic considerations. The Conference was the result of many years of discussions and GRULAC welcomed the flexibility that had been shown by all parties involved in pursuing the achievement of an instrument that strengthened the position of performers in the audiovisual industry in the Latin America and Caribbean region. GRULAC welcomed the invaluable contribution of the performers of the region of Latin America and the Caribbean to building a regional cultural identity, and wished to respond to that and pay due tribute by assuring the fair distribution of equitable remuneration for performers. In the area of intellectual property, GRULAC always stood for the building of balanced systems that benefited not only rights holders, but also society in general.

33. Mr. RIZK (Egypt), speaking on behalf of the African Group, believed that after more than 12 years of negotiations, the time had come to conclude an international agreement on the protection of audiovisual performances. That was the position of the African Group during the 2000 WIPO Diplomatic Conference, when the Group had urged the protection of audiovisual performances in developed and least-developed countries, particularly in relation to exhibitions of folklore. Throughout the period 2000–2011, the African Group had remained closely engaged in consulting with partners to find solutions and achieve global consensus for an international legal instrument that would extend the protection for audiovisual performers, such as singers,

musicians, dancers and actors, especially from developing countries, and grant them both economic and moral rights, similar to those already recognized for music performers under the WPPT concluded in 1996. Examples in this regard included the WIPO Regional Seminar on the Protection of Performers in Africa, organized in Malawi in 2008, and another Regional Seminar for African Countries on the Protection of Audiovisual Performances held in October 2010 in Abuja, Nigeria. In essence, during the previous 11 years, Africa had been at the forefront of the efforts to protect the creative work of audiovisual performers. There were several reasons for the African Group to support the conclusion of an international legal instrument. It would be important to extend to performers the rights against unauthorized use of audiovisual performances, along with the rights granted by the WPPT adopted in 1996, particularly with respect to the economic rights of performers in their performances: the right of reproduction, the right of distribution, the right of rental, the right of making available fixed performances, and the right of broadcasting and communication to the public. The Instrument would also ensure that when a DVD was reproduced, sold, rented or broadcast in a different country, equitable benefits would be sent to the country of origin, and then shared among performers. The Instrument would also grant performers moral rights to prevent lack of attribution or distortion of their performances. Indeed, for many actors and performers, especially in developing countries, the Treaty would strengthen their economic rights and equitable benefit sharing. Moreover, the Instrument contained sufficient flexibility for each WIPO Member State to regulate, as part of its national laws, the best-suited design to address the issue of transfer of rights from performers to producers.

34. He was also pleased to see a collective march towards the realization of the 2011 General Assembly's decision to hold a Diplomatic Conference on the Protection of Audiovisual Performances. The mandate was clear and unambiguous, to adopt the 19 Articles, including the respective Agreed Statements that had been provisionally adopted at the 2000 Diplomatic Conference; the new Article 12 agreed by consensus at the Twenty-Second Session of the SCCR; the administrative and final provisions; the three additional Agreed Statements in relation to Articles 1, 2 and 15 respectively; and one additional clause in the Preamble recognizing the importance of the WIPO Development Agenda. In 2007, Member States had adopted the 45 Recommendations to form an integral part of WIPO's work. The African Group was strongly committed to successfully achieving that mandate, and spared no efforts in reaching out to partners and various stakeholders urging them to show the political will and flexibility required to ensure fairness and balance in the international intellectual property system for the benefit of all creative performers in their audiovisual works.

35. Mr. GVALADZE (Georgia), speaking on behalf of the Group of Central Asian, Caucasus and Eastern European Countries (CACEEC), said he hoped that the Conference would achieve tangible results and a successful outcome.

36. Ms. MARTIN-PRAT (European Union) said that the reconvening of the Diplomatic Conference on the Protection of Audiovisual Performances, which had started in 2000, was proof of the strong will of all WIPO Members to reach a common goal, which was to ensure an adequate level of protection of intellectual property rights for audiovisual performances. Protection in the Internet environment needed clear international rules. Many WIPO Member States had put all the best efforts into trying to resolve the outstanding issues from the Diplomatic Conference in 2000, notably through informal consultations, regional seminars and open-ended consultations, organized with the WIPO Secretariat. Delegations had come to Beijing with an agreed text of the Basic Proposal for the substantive provisions of the Treaty.

That had been made possible by building upon all that had been already achieved during the 2000 Diplomatic Conference, and thanks to the hard work of the SCCR at its Twenty-Second Session, held in Geneva in June 2011. Negotiations had resulted in a final agreement on the transfer of rights, which was the only issue left open after the 2000 Diplomatic Conference. The Diplomatic Conference was therefore the best opportunity to validate the long-awaited agreement by audiovisual performers to get rights similar to those of authors, performers and phonogram producers. The European Union and its Member States, along with other delegations, had worked closely together for the adoption of a number of agreed statements to address specific concerns raised by WIPO Members. During the Diplomatic Conference, delegations would work on agreed statements that were intended to recall the importance of the TRIPS Agreement, to clarify the relationship between the WPPT and the new Treaty, to better describe those performances protected under the Treaty, and also to be clear as to the relationship between technological measures and exceptions. The European Union and its Member States had also worked on a proposal for an additional preamble clause related to the importance of the Development Agenda. The text presented represented a broad and balanced consensus among countries having a particular interest in the international protection of audiovisual performances. Such a wide consensus had not been found so often in past years, and that was why it was possible to invite other delegations to consider joining the proposals and to share the same objective of the Diplomatic Conference. Finally, with respect to Article 23(2) and (5) for the proposal on administrative and final clauses, the European Union declared that it had its own legislation binding all its Member States on matters covered by the Treaty and could therefore become party to it.

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37. The PRESIDENT opened the meeting and invited the delegation of Iran (Islamic Republic of) to deliver a statement on behalf of the Asian Group.

38. Mr. KHOUBKAR (Iran (Islamic Republic of)), speaking on behalf of the Asian Group, looked forward to building on the positive efforts taken at the Diplomatic Conference in 2000 and working towards the conclusion of the Treaty on the Protection of Audiovisual Performances. After a decade of hard work, and the study of national laws, rules and practices, as well as pending issues, Member States had reached a turning point and had accomplished unfinished work. He thanked all those that, in the SCCR session in June 2011, had reached a groundbreaking compromise and had opened the door for this final step. The rapid progress of applied sciences had made it hard for the international community to keep up with technology and the process of norm-setting. Lapses in securing the benefits, rights and interests of people due to the lack of norms, could distort economic and cultural aspects of life, which were changing with the pace of technology. The rapid progress of technology had made it possible that, in a fraction of a second, audiovisual works could be accessible everywhere in the absence of norms and regulations. The transfer of rights from performers to producers, in an audiovisual

fixation, could be addressed properly under national law. Fortunately, the flexibility of Member States during the SCCR Session of 2011 had resulted in the adoption of Article 12 in relation to the transfer of rights. Although it would not introduce a uniform approach at the international level, the Article offered the necessary flexibility regarding ownership and the exercise of the exclusive rights in fixed audiovisual performances, on the basis of the contract between performers and producers. The norms to be adopted referred to the interests and benefits of the performers; however, the Conference should not be unmindful of the public interest and of achieving a balanced approach between the rights of rights holders and the public interest. This issue of critical importance had always been observed in intellectual property norm-setting activities, including the Treaty under discussion. Norm-setting activities should consider different levels of development and should be more geared toward being an inclusive part of the UN system. In conclusion, the Asian Group looked forward to constructive, productive and fruitful discussions towards accomplishing the task at hand in Beijing.

39. Mr. FICSOR (Hungary), speaking on behalf of the Group of Central European and Baltic States (CEBS), hoped that, through common efforts by delegations, the long-awaited Treaty would finally bring audiovisual performances into the international legal framework. His region had a strong cultural identity and CEBS was proud of the local community of performers. It was high time that the international community finally extended the protection for audiovisual performances by granting performers both economic and moral rights, similar to those already recognized for music performers. That was even more important considering the rapidly evolving global, commercial and technological environment. Therefore, CEBS was extremely pleased that, after three attempts in 1996 and 2000, there had been a breakthrough at the Twenty-Second Session of the SCCR, and a balanced agreement was finally reached on the crucial question of transfer of rights. CEBS thanked the people closely involved in the negotiations for setting an excellent example of cross-regional cooperation. The positive trend had continued and considerable progress had already been made in closing the gaps as to the content of the Agreed Statements, as well as concerning the proposal for an additional preamble clause. With dedication, flexibility and an open mind, the Conference would be able to reach a satisfactory conclusion on those remaining issues. The Group had the clear aim of bringing a successful outcome home and thus demonstrating to the world that the international community was still capable of agreeing moderately and doing useful work to protect rights holders. It was a common responsibility to reaffirm the role of WIPO in norm-setting activities and set a positive precedent for future work in Geneva.

Agenda item 5: Election of Vice-Presidents (continuation)

40. The PRESIDENT returned to an outstanding item related to the election of officials before opening the floor for general statements, and gave the floor to the Secretariat.

41. Mr. KWAKWA (Secretariat) informed the Plenary that following informal consultations, it had been proposed that the following officers be elected as Vice-Presidents of the Conference: Mr. Steve Rowan, United Kingdom of Great Britain and Northern Ireland; Mr. Mario Matus, Chile; Mr. Alireza Jahangiri, Iran (Islamic Republic of); Ms. Marisella Ouma, Kenya; Ms. Lilia Bolocan, Republic of Moldova; Mr. Marco Morales Montes, Mexico; and Mr. Ivan Bliznets, Russian Federation.

42. The PRESIDENT noted that there were no objections to the list of candidates proposed for Vice-Presidents of the Conference; therefore, the list was adopted.

43. *The Diplomatic Conference elected the proposed Vice-Presidents.*

Agenda item 7: Election of Members of the Drafting Committee

44. The PRESIDENT opened agenda item 7 on the election of the Members of the Drafting Committee and gave the floor to the Secretariat.

45. Mr. KWAKWA (Secretariat) informed the Plenary that with respect to the Members of the Drafting Committee, the following names had been proposed: Mr. Estanislau Amaral, Brazil; Mr. Zhaozhi Tang, China; Mr. Qian Wang, China; Ms. Shira Perlmutter, United States of America; Mr. Mokhtar Warida, Egypt; Mr. Jaime de Mendoza Fernandez, Spain; Mr. Jukka Liedes, Finland; Ms. Anne Le Morvan, France; Mr. Giga Kobaladze, Georgia; Mr. Mahamoud Khoubkar, Iran (Islamic Republic of); Mr. Martin Moscoso, Peru; Ms. Laura Harbidge, United Kingdom of Great Britain and Northern Ireland; Mr. Vladimir Maric, Serbia; Mr. Thaddaeus Kai Yuen Hoo, Singapore; Ms. Kelly Yona, Switzerland; and Mr. Liu Zhenmin, China.

46. The PRESIDENT, noting that no objection had been raised, declared the list adopted.

47. *The Diplomatic Conference elected the proposed members of the Drafting Committee.*

Agenda item 8: Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee (continuation)

48. The PRESIDENT reopened agenda item 8 on the election of officers for the Main Committees, and again gave the floor to the Secretariat.

49. Mr. KWAKWA (Secretariat) said that with respect to the officers of the Credentials Committee, the following names had been proposed: President, Mr. Gary Kashitiku, Zimbabwe; Vice-Presidents: Mr. Xiaohong Yan, China, and Mr. Grega Kumer, Slovenia.

50. Mr. KWAKWA (Secretariat) said that with respect to Main Committee I, the following names were proposed: President, Mr. Manuel Guerra Zamarro, Mexico; Vice-Presidents: Ms. Sue Williams, United Kingdom of Great Britain and Northern Ireland, and Mr. Mihaly Ficsor, Hungary.

51. Mr. KWAKWA (Secretariat) said that with respect to Main Committee II, the following names were proposed: President, Mr. Justin Hughes, United States of America; Vice-Presidents: Ms. Laura Harbidge, United Kingdom of Great Britain and Northern Ireland, and Mr. Alireza Jahangiri, Iran (the Islamic Republic of).

52. The PRESIDENT declared the lists adopted and the election of the Officers of the Drafting Committees, the Credentials Committee and Main Committees completed.

53. *The Diplomatic Conference elected the Officers of the Credentials Committee, Main Committee I and Main Committee II.*

54. Mr. KWAKWA (Secretariat) informed the Plenary that, with respect to the Drafting Committee, the following Officers were proposed: for President, Mr. Jukka Liedes, Finland; and for Vice-President, Mr. Liu Zhenmin, China.

55. *The Diplomatic Conference elected the Officers of the Drafting Committee.*

Agenda item 10: Opening Declarations by Delegations (continuation)

56. The PRESIDENT declared the nominations approved and called for opening statements.

57. Mr. RABEHI (Algeria), speaking on behalf of the Development Agenda Group (DAG), congratulated the President on his election and assured him of the Group's full support. The Delegation also expressed thanks to the Secretariat for the efforts made in preparing the current event. He thanked the WIPO Director General, and his staff, for their devotion and commitment to the Member States in the formation of an international consensus on a fair, important and crucial issue such as the protection of performers' rights, and thanked the Government of China for the hospitality and excellent conditions under which such a remarkable international meeting had been organized. He acknowledged the consensus, which had been reached by the Member States of WIPO, and that the Conference was being held in a large country such as China, whose efforts to protect intellectual property served as a good reference. Following a long cycle of negotiations, the Conference planned to enshrine, in concrete terms, the right to protection for audiovisual performances through the adoption of an international instrument, thereby complementing the provisions established by the WPPT. The Conference also planned to strengthen the rights of performers such as singers, musicians, dancers and actors, by safeguarding their moral and economic interests. DAG considered that it was necessary, more than ever, to make intellectual property a true lever for development and contribution to social and economic growth in developing countries. As a result of their agreement on the Development Agenda, adopted in 2007, Member States had committed themselves to promoting integration and the development dimension in all WIPO's activities and decisions. DAG wished to reiterate its satisfaction with the progress made in incorporating development aspects in the essential areas of WIPO's activities. The perennial nature of development, as a strategic priority for WIPO, could therefore only strengthen the implementation of the recommendations contained in the Development Agenda. In this regard, the Delegation praised the balanced approach advocated by the Committee, which had prepared for the Conference by finalizing the substantive texts now submitted for evaluation. The Delegation also considered the proposal by Brazil, to add a clause to the Preamble of the Treaty, as stated in the text of document AVP/DC/6, to be well founded and legitimate. The clause enjoyed the support of DAG, which of course remained open to any discussions on the subject, with a view to enabling the principle to be enshrined in the Treaty under discussion at the Diplomatic Conference.

58. Mr. LANGA (South Africa) reminded the delegates that in 2000 the first Diplomatic Conference had been convened with the mandate to negotiate and adopt a treaty for the protection of audiovisual performances. Although the Treaty had not been adopted, significant strides had been made, with the provisional adoption of 19 substantive articles. South Africa was pleased that the Conference was meeting to complete the task that had been started many years ago. South Africa commended all Member States and other stakeholders for working

together in a constructive manner to resolve the outstanding issues from the first Conference. The Delegate hoped that the constructive spirit on display in a number of meetings would end up aiding the process, noting that the Conference was expected to draft and adopt additional statements in relation to Articles 1, 2 and 15, as well as a clause in the Preamble, taking into consideration the WIPO Development Agenda recommendations. Intellectual property was a strategic tool for economic and social development in the twenty-first century. As a developing country, South Africa recognized the importance of promoting innovation and creativity, as well as the protection of intellectual property rights. Those rights must be understood within the broader socioeconomic context. In that regard, the balance had to be maintained among the protection of intellectual property rights, public interest access, and fair use for advancing development imperatives. That objective had been reinforced and confirmed through the adoption of the WIPO Development Agenda in 2007, which was an integral part of all WIPO activities. In the move towards modern knowledge-based economics, creative industries and audiovisual performances had become increasingly important components of national economies and global trade, as well as cultural exchanges. South Africa had the opportunity to harness its cultural diversity to create its own competitive advantage, to increase its local content, and to build the capacity of its creative economy. It was important to develop a system within the intellectual property regime to create value for the performers, in order to encourage, promote and protect their creativity. Part of that approach was to ensure that artists created wealth out of their creative genius. Performers as interpreters of narrative were central to the creation of the work and therefore, deserved proper recognition and protection, especially in the digital age.

59. Ms. GRAZIOLI (Switzerland) expressed sincere thanks to China, the host country, for its warm welcome and the excellent organization of the Conference. The Delegation also wished to thank all the people within the WIPO Secretariat who had contributed to the organization of the Conference, and all those who would continue to work in the coming days to facilitate deliberations, and thus, enable excellent results to be obtained. Economic, cultural and technical developments gave rise to the need for international protection for performers, in relation to audiovisual fixations of their performances, in a manner comparable to that achieved for performers and producers of phonograms in 1996. The Delegation therefore welcomed the Basic Proposal which had been submitted and noted that the proposed compromise concerning the Article on the transfer of rights, which had been adopted by the SCCR in June 2011, had helped to overcome the remaining differences of opinion, following years of discussions and consultations, and finally provided a complement to the provisional agreement that had been reached on 19 of the 20 Articles of the draft Treaty at the Diplomatic Conference in 2000. Following 15 years of work, a common thread had been found in the various provisions leading to the draft Treaty that was extremely promising and useful for performers in the audiovisual sector. For that reason, the Delegation fully supported the draft Treaty submitted and would work actively and constructively in the negotiations over the coming days to achieve balanced solutions on the matters still open – without bringing into question the results already achieved – so as to obtain the success that had been long awaited by performers in the audiovisual sector. The Delegation assured the President of its commitment and cooperation in order to achieve a successful outcome to the Conference of which all participants could be proud, in the form of a treaty.

60. Mr. THAKUR (India) reminded the delegates that India had played a crucial role, along with the United States of America and Mexico, in bringing about a consolidated legal text for Article 12, on the transfer of rights. Based on their proposal, which had been submitted to

WIPO, the deadlock that had lingered on for almost 11 years, delaying the protection of the rights of the performers in audiovisual performances, had been resolved. The protection of audiovisual performances in the digital age was required because producers could exploit audiovisual performances with new media, to the disadvantage of performers. As agreed by the Member States of the WIPO General Assembly in 2011, India was very keen to include a paragraph in the preambular clause to highlight the importance of the WIPO Development Agenda in norm-setting activities. India had also proposed a draft Agreed Statement on Article 1, 2 and 15 of the Basic Proposal. The Delegation wanted to participate in discussions on those matters in a positive way, and to finalize them in agreement with other Member States. Although India was not a member of the WPPT, the country had recognized the importance of protecting and extending the rights of performers in the digital environment, and the provisions of the WPPT had been suitably included in the Indian Copyright Amendment Act of 2012. Therefore, India looked forward to constructive discussions on all the agenda items in the Diplomatic Conference, with positive and constructive support to finalize the WIPO Treaty on the Protection of Audiovisual Performances.

61. Mr. GUGGIANA (Chile) expressed his Delegation's satisfaction with the resumption of the Diplomatic Conference on the Protection of Audiovisual Performances, and thanked the Government of China for its hospitality, as well as its efforts to organize the Conference together with all the staff of the WIPO Secretariat. To date, the protection of audiovisual performances had been an area of copyright and related rights which, at the international level, had not moved forward on an equal footing with other areas. The Diplomatic Conference, now resumed, represented the culmination of many years' work by the SCCR. It was a unique opportunity to correct the situation and give additional momentum in the international normative sphere of copyright and related rights, in order to establish a multilateral legal framework, providing adequate protection for performers' rights in relation to their audiovisual performances. During the 12 long years that had passed since the suspension of the Conference in the year 2000, numerous events had taken place in the world of intellectual property, particularly at WIPO. Also, major technological progress – which had been unimaginable in previous years – had changed for good the way in which the cultural industries and, in particular, the audiovisual industry, operated. With respect to the first of the issues raised, without a doubt the Development Agenda process had been an element that had fundamentally changed the Organization's different activities, incorporating a development dimension across the board. However, it was only through the successful culmination of such a Treaty that the Development Agenda would be able to implement in final form some of its most relevant recommendations, in particular those in Cluster B on "Norm-setting, flexibilities, public policy and public domain." If, as was hoped, the work during the current week was successfully concluded, the WIPO Treaty on the Protection of Audiovisual Performances would be the first international standard-setting instrument within WIPO to take effective account of the Development Agenda process. That undoubtedly gave additional value to the Treaty. Finally, the Delegation believed that the agreement reached within the SCCR in Geneva to resume the Conference provided an excellent and balanced foundation to achieve a successful conclusion to the work of the Conference. The 19 approved Articles should be provisionally combined with the existing agreed statements, the new Article 12 agreed by consensus during the Twenty-Second Session of the SCCR, and the three additional agreed statements, which were to be drafted in relation to Articles 1, 2 and 15. It was important to highlight the presence in the room of representatives from ChileActores, an organization responsible for defending the economic and moral rights of performers in audiovisual works in Chile. Their presence in Beijing – thousands of kilometers

away from Chile – reflected the importance of the Treaty being concluded, not only for its primary beneficiaries, but of course for society in general.

62. Mr. SCAFATI (Uruguay) stated that the Diplomatic Conference had significant importance for achieving consensus on the text, which had largely been agreed several years ago, although there had been no agreement on several articles. Discussions had continued based on the flexibility that various delegations had shown to achieve consensus on the article that had prevented an agreement from being reached in the past. As indicated in the Twenty-Second Session of the SCCR in June 2011, changes had been made since the first text had been agreed upon. It was considered possible to achieve agreement on the article, with the possibility of presenting amendments and Agreed Statements. The Delegation had studied all the proposals, and considered that the text that would come out of the discussions would provide the greatest guarantees for rights holders as well as to users. WIPO had organized or participated in many workshops to raise awareness about the issue, as in the absence of international solutions, national solutions had been sought. There was a need for an international agreement that would establish minimum standards for the harmonization of national legislations, while taking into account the particularities of each State. The Delegation hoped that very soon a Diplomatic Conference to discuss and approve the text of a treaty for visually impaired people would be called; and also, one for a treaty on libraries and archives, a proposal that had recently been presented to the SCCR by Uruguay. There would be additional days in July for the SCCR to discuss limitations and exceptions for education with the understanding that the subject matter could also form part of a treaty. The SCCR would also be discussing a treaty proposal on broadcasting, for which an informal agreement had been achieved, and for which Uruguay had submitted a treaty proposal some years earlier. For all these issues, the right of various categories of people to access knowledge was at stake, as well as the right of creators and performers to be fairly remunerated. The necessary balance between the various rights was a key objective. The Delegation of Uruguay would work towards the success of the Conference with the approval of the proposal, which was much hoped for by performers, and on pending issues within the SCCR.

63. Mr. UYANGODA (Sri Lanka) supported the statement made by the Delegation of Iran (Islamic Republic of) on behalf of the Asian Group. He recalled some of the steps that had been taken by Sri Lanka for the protection of performers and also pointed out that the protection of producers of sound recordings, and broadcasting organizations, was an important issue regulated under the 2003 Act. Sri Lanka had a long history of intellectual property protection dating back to the 19th century. The provisions on copyright had been introduced under Copyright Law Number 12 of 1908. With the liberation of colonial Sri Lanka in 1978, new laws were required to facilitate free trade and to protect the rights of traders. Accordingly, the law adopted for domestic needs had been presented to the Parliament on May 25, 1979 and had been passed as the Intellectual Property Act Number 52 of 1979. The Act contained substantive provisions on trademarks, patents, industrial designs, unfair competition and copyright, but it had become necessary to update the copyright law to the framework of the TRIPS Agreement. Against that background, the Intellectual Property Act 36 of 2003 had been introduced to enhance the existing provisions by promoting creativity, innovation and invention in a knowledge-driven global environment. That new law contained provisions with regard to protected works, rights of the owners, duration of copyright, exceptions to the rights, transferring of the rights and granting licenses, related rights, infringement and enforcement of rights, and collective management, as well as provisions to protect the rights of performing artists, producers of sound recordings, and broadcasting organizations. Those rights were protected

from the moment that the performance, publication of the sound recording, or the broadcast took place, and continued for 50 calendar years. That Act had also recognized a special right, namely, the right to equitable remuneration for the performers and producers of sound recordings. Under that right, the user paid a single equitable remuneration to the performer and the producer of the sound recording. Enforcement of rights was another important aspect of the law, as the rights holder could seek civil law remedies and criminal sanctions. Collective management of performing rights had also been recognized under the law. The intellectual property system had a special place in Sri Lanka's development efforts, in particular in relation to fostering an environment conducive to innovation and creativity, with the aim of making the country a knowledge hub. The deliberations of the Conference would make a valued contribution towards concluding the Audiovisual Performances Treaty.

64. Mr. MORALES MONTES (Mexico) congratulated those delegations that had proposed solutions, such as the Delegations of the United States, India and Mexico. Their proposals had been supported and adopted by consensus as part of the Treaty text during the Twenty-Second Session of the SCCR, held from June 15 to 24, 2011. Audiovisual performers throughout the world would be pleased as performers had been able to participate in the Diplomatic Conference. The adoption of the Treaty would offer them effective protection at the international level for the use of their audiovisual performances. The Delegation of Mexico expressed full willingness to participate constructively and actively in the debates of the Diplomatic Conference, with a view to achieving success in the negotiations in order to adopt the WIPO Treaty on Audiovisual Performances.

65. Mr. SIMONOV (Russian Federation) welcomed all participants and organizers of the Diplomatic Conference on the Protection of Audiovisual Performances and congratulated everybody on such a noteworthy and long-awaited event. The Delegation also congratulated the Chair and his deputies on their election to such honorable and responsible positions, and considered that, under their leadership, the Diplomatic Conference would be successful and achieve the designated aim. The audiovisual and film-making industries were now an integral component in the life of modern society. International legal protection, currently granted to audiovisual performances by the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, (Rome, 1961) was extremely limited. For a period of more than 50 years following the adoption of the Rome Convention, the creation and use of output from the audiovisual industry had developed significantly. New methods of using performances, including through the enhancement of recording technologies, and the dissemination, broadcasting and making available to the general public of audiovisual performances, had appeared and were being actively used. Audiovisual performances containing an interactive element were being created. New methods of copying, of providing a significant improvement in the quality of recorded copies, and of preparing copies using various devices, irrespective of the place of the original recording of a performance, had been devised. One example was digital technology, which had led to the development of uses for audiovisual performances on the Internet. However, the latest achievements in modern information and telecommunications systems had opened up new possibilities not only for lawful but also unlawful use of audiovisual performances. Thus, having increased the degree of risk of unlawful use, the development of technologies had given rise to the need to enhance legal mechanisms for the protection of audiovisual performances. The issue of international protection of such performances, which was so important for the international film and audiovisual industry, had been a subject of long discussions within the framework of the SCCR. The Draft submitted for examination by the current Diplomatic Conference had been the result of many years of work by

all members of the Standing Committee. Despite the consensus achieved on 19 Articles at the 2000 Diplomatic Conference, the participants had been one step away from completing such an important process. This related precisely to achieving agreement on Article 12 of the Draft, which was devoted to the transfer of rights in relation to audiovisual performances. In fact, the issue of the transfer of rights was not a straightforward one, in view of the diversity of national approaches. However, thanks to the political will demonstrated by all members of the Standing Committee, and the unstinting desire to achieve a positive result – the enhancement of international legal protection for audiovisual performances – the Diplomatic Conference on the Protection of Audiovisual Performances was now being resumed. Particular mention had to be made of the efforts and contribution made by the WIPO Secretariat. Through its active work, a number of regional and national seminars had been organized throughout the world, and special scientific research had been conducted, allowing not only the problems in question to be understood in a more comprehensive fashion, but also progress to be made towards the Diplomatic Conference. Thanks also had to be expressed to the leadership of the People's Republic of China, which had initiated holding the current Conference in that remarkable country, with its traditions that were thousands of years old, and had demonstrated heartfelt hospitality towards all the Conference participants. The Delegation of the Russian Federation was open to discussion and would make every possible effort to seek solutions that allowed balanced consideration of the interests of all the Member States of WIPO. The Delegation trusted that the outcome of the current Diplomatic Conference would be successful, and that its result would be the conclusion of a new international treaty that would broaden the rights of performers in the audiovisual sphere and, taking into account the progress achieved by modern technology, give rise to a new level of protection for audiovisual performances.

66. Ms. LÓPEZ GILLI (Argentina) recognized that since 2009 there had been a renewed interest in WIPO to work towards the adoption of a Treaty on the Protection of Audiovisual Performances. That had been expressed through the strong support of countries for the conclusion of the agreement. The agreement at the SCCR in June 2011 allowed for the adoption of the decision to hold the Diplomatic Conference. Since 1996, the international community had been making efforts to reach an international agreement on the protection of audiovisual performances. Despite the general wish to improve the legal position of artists and performers, it had not been possible to reach the desired consensus in 2000. The Delegation had followed the debates on Article 19 and Article 12, and had recognized the need to incorporate the most recent developments into the discussions. It had taken into account technological evolution, as well as the manner in which intellectual property rights had been addressed after the adoption of the WIPO Development Agenda. The Development Agenda was now part of WIPO's work and through it, WIPO had sought to provide a balanced and accessible copyright and related rights system. Progress had been made possible thanks to the flexibility shown by Member States and to the initiatives made by various delegations in order to bring positions closer together. The Delegation of Argentina looked forward to an agreement on a paragraph in the Preamble of the text relating to the Development Agenda, and considered it important to provide an adequate level of international protection for audiovisual performances in accordance with the protection granted to musical performances. Under Argentinian legislation, performers were protected under an intellectual property right attached to interpretation. It was important to recognize the creative role of artists and performers because they made a fundamental contribution to cultural diversity, creativity, and the development of a country. They formed part of the cultural heritage of a country and therefore deserved to be adequately protected both within and outside their own countries. The Delegation expected that the work carried out by the Diplomatic Conference would make it possible to consolidate the

legal basis for the international protection of performers, and expressed commitment to contribute constructively to the debate that would lead to the adoption of the Treaty.

67. Ms. TOTIĆ (Serbia) expressed the Serbian Delegation's full support for the adoption of the Treaty, as it prescribed minimum rights to audiovisual performers and would secure the international protection of audiovisual performers, in compliance with the principle of national treatment. The Treaty also provided an answer to the issues related to technological development and contributed to the further harmonization of national legislations. The instrument respected differences relating to the economic development of countries, providing them with the opportunity to limit some rights or to declare that they would not apply them. The Delegation hoped that its engagement at the Conference would bring consensus on the texts that were still open for discussion. Success would represent an important step in strengthening the international system of protection of intellectual property rights.

68. Mr. SOBION (Trinidad and Tobago) stated that Trinidad and Tobago had continuously supported the development of a Treaty for the Protection of Audiovisual Performances and was encouraged by the status of the discussions on the Treaty provisions. The Delegation applauded the work of WIPO and its various committees. The Treaty represented a significant milestone in providing an international framework for the protection of the rights of all performers in their performances, and a clearer legal basis for the international use of audiovisual productions, both in traditional media and in digital networks. As many of Trinidad and Tobago's performers performed overseas at major events and festivals, and their performances were recorded in various media, the conclusion of the Treaty would constitute a boost for them by providing a new layer of protection, through the moral and economic rights that would be granted, which would increase the revenue flows for performances. Trinidad and Tobago sought to develop its local film industry and the talents of its own actors. It believed that the benefits to be derived from the conclusion of the Treaty would act as an incentive. Trinidad and Tobago had a long history of involvement in the discussions for the conclusion of the Treaty, and had participated in the deliberations that had led up to the 1996 Diplomatic Conference for the elaboration of the WPPT and the WCT. It had also participated in the meetings of the Committee of Experts in September 1997, which discussed a protocol for the protection of audiovisual performances. It looked forward to the adoption of an equitable and fair system, allowing performers to enjoy the fruits of their labor.

69. Mr. OKIO (Congo) stated that on behalf of the Government of the Congo and its President, His Excellency Mr. Denis Sassou-Nguesso, the Delegation would like to express sincere thanks to the government and people of the People's Republic of China for the very warm welcome and the successful organization of the Conference. Associating itself with the delegations that had spoken previously, the Delegation congratulated the President of the Conference and all members of the Bureau, and wished them success in their work. Congo reaffirmed its trust in the WIPO Director General and welcomed the efforts he and his team had made to make WIPO a better performing, effective and proactive organization. Holding the Diplomatic Conference was the culmination of a long process characterized by the defense of the interests of a profession, the intangible work of which is a source of life, and the international management of which was of absolute necessity. It should be noted that the adoption of the WPPT in 1996 had updated the rules concerning sound performances, particularly with regard to digital usage. However, the void had not been filled in relation to the rights of audiovisual performers. The Diplomatic Conference on the Protection of Audiovisual Performances, held in Geneva from December 7 to 20, 2000, had not led to a signed treaty because the participants

had concluded the work with a Provisional Agreement relating to 19 of the 20 Articles under consideration. Since 2001, however, the members of the SCCR had finally reached an understanding on a more flexible compromise text, which could be adapted to different national laws and had thus opened the way to conclude a treaty. The spirit of consensus that had reigned in the SCCR should therefore be noted and all its members congratulated. The adoption of a new instrument would strengthen the position of performers in the audiovisual industry by defining a clear legal basis for the purposes of international use of audiovisual productions by both traditional carriers and digital networks. Such an instrument would help to preserve the rights of performers against unauthorized use of their works in audiovisual media such as television, cinema and video. That was the whole *raison d'être* of the Diplomatic Conference. With regard to the two substantive proposals and the administrative and final clauses of the Treaty, the Delegation stated that in relation to the substantive proposals, it was particularly interested in the inclusion of an additional clause recognizing the importance of the Development Agenda. It supported the delegations that had taken the initiative in that regard. Since the implementation of the Development Agenda in 2007, followed in 2010 by the underlying coordination mechanism, Congo's consistent position had always been to support the consideration of development problems in all WIPO initiatives, even in relation to conventions. The aspects of the legal mechanism that required Agreed Statements, together with the administrative and final clauses, could initially lead to minor disagreements, but did not place obstacles on the road to adopting a relevant instrument. However, Congo wished to raise a number of concerns in relation to its expectations. Despite the wealth of cultural activity in the country, investments related to that activity had not followed. It was a sector that required new momentum as well as protection and, above all, organization. Given the current fragile state of the national cultural industry, as well as in relation to moral rights, it was in the interest of performers to preserve all their rights, even if they might transfer them by signing contracts expressly with producers for compensation in the form of equitable remuneration. There was indeed no guarantee for creators to benefit from the communication of their works to the public without adequate organization or specific legal rules. In that regard, the current wording of Article 12 was part of Congo's concerns. Regarding the obligations relating to technological measures, the Delegation of the Congo noted that performers or their representatives, together with licensees or assignees, and communication or broadcasting organizations that benefited from an authorization for the use of audiovisual performances, already enjoyed protection under the Law of the Congo No. 24/82 of July 7, 1982 on Copyright and Related Rights (in particular Articles 9, 10, 11, 12, 33, 71, 91, 92, 99 and 110). It remained for the law to be strengthened by providing for sanctions and adaptation to developments in the international legal order, following the signing of the Treaty. The aim of the Diplomatic Conference was to regulate and promote a healthy environment in the field of international copyright. The Delegation was fully aware of the importance of the Conference, and expressed the hope that lasting solutions would be found to the problems of performers, thereby providing for the defense of the interests of all professionals in that sector.

70. Mr. SHIBATA (Japan) welcomed the convening of the Diplomatic Conference on the Protection of Audiovisual Performances. The new instrument was of vital importance in the era of global digital networks in the 21st century. Japan hoped that discussions would bear fruit among those with diverse interests, and that compromise would demonstrate the flexibility of the delegations. Japan was ready to continue to contribute to mutual discussions in a constructive manner, with a view to establishing the essential framework for audiovisual performances worldwide.

71. Mr. GUTIERREZ REINEL (Peru) congratulated the President on his election on behalf of the Delegation of Peru, and was sure that under his leadership fruitful results would be achieved and a treaty concluded in full. He also congratulated the members of the Bureau and the presidents and members of the different committees. He highlighted the importance to Peru of the work to be done in updating the rights of performers with regard to their audiovisual performances. Peru had a Law on Performers (Law 28131), which could be considered to be at the forefront of the region and throughout the world, since it updated protection in order to meet the challenges imposed by new digital technologies. However, such protection was limited to national territory despite the fact that it also benefited national and foreign performers seeking protection in Peru. It was now essential for such protection to be made universal. As a result, it was the wish of the Government of Peru to seek to extend the scope of such updated rights beyond its national territory. In that connection, two articles on the recognition of performers' rights had been included in the chapters on intellectual property in the Free Trade Agreements that had been signed with the United States of America and the European Union. In particular, regarding the latter instrument, Peru was especially satisfied at having promoted the introduction of new rights in the national legislation of countries that participated in such an important area of integration, and approval was pending by the European Parliament. Peruvian actors – and all performers in general – had the opportunity to benefit from business models based on new technologies; hence the importance of promoting the establishment of an international framework providing a set of rights for performers and guaranteeing fair reward, as generated by the exploitation of their creative performances. For this reason, the Delegation decisively supported the need to conclude the Treaty on that occasion, using the work done in the year 2000 and incorporating the formulae for consensus achieved to date. The flexibility demonstrated by those whose positions had previously diverged was welcomed since, in a constructive spirit, it would lead to the conclusion of the Treaty. Peru was clearly on the way to achieving comprehensive development of its society, as shown by the impressive social and economic achievements realized in the previous few years. However, that process would not be complete if actors and performers, in general, were not provided with reassurance that the worthy decision they had taken to devote their lives to creative labor, often at a high personal and family cost, would be compensated through effective use of the available tools, including rights related to copyright. In that spirit, Peru was proud of its recent winner of the Nobel Prize for Literature, Mario Vargas Llosa, and of the broad international fame achieved by the tenor, Juan Diego Flores, as well as the film director, Claudia Llosa, whose film *La Teta Asustada* (distributed with the English title *The Milk of Sorrow*) had won The Golden Bear at the Berlin Festival, among other examples of note. The Delegation therefore wished that such creators, and the many authors and performers following their examples, would be proud of the work being done at the Conference, provided those present were able to complete that work successfully and reach the long overdue conclusion of the WIPO Treaty on Audiovisual Performances. The Delegation of Peru would make all possible efforts to achieve a specific and comprehensive result at the meeting in Beijing and would demonstrate the maximum flexibility and a spirit of consensus in order to do so.

72. Ms. BANGOURA (Guinea) was confident that together, all delegations would be able to adopt the Beijing Audiovisual Treaty. The Government of Guinea had set a certain number of priorities in its development program, among which was listed the promotion of culture and art in all its various forms. The outcome of the Diplomatic Conference would benefit thousands of performers in Africa that were not properly compensated for their work. Guinea fully agreed with what had been said by the Delegation of Egypt on behalf of the African Group. It was fully in favor of an international treaty for the protection of audiovisual performances, which could make

it possible for artists in Africa to escape poverty and fight increasing piracy, which was spreading by new means. In order to counter that phenomenon, Guinea would launch a campaign of awareness later in the year.

73. Mr. DO AMARAL SOUZA NETO (Brazil) recalled that the road that had been followed to reach the present state of discussions had been long. It had certainly not been free of objections and difficulties, but they had been necessary because of the need to bring together different and complex positions, both from a conceptual point of view as well as in terms of implementation. The present potential to conclude an agreement for the protection of audiovisual performances was mainly due to the flexibility that had been shown by several delegations and the role of facilitator carried out incessantly by the WIPO Secretariat. Brazil endorsed the statement made by the Delegation of Paraguay on behalf of GRULAC, as well as the statement made by Algeria on behalf of the Development Agenda Group. In September 2011, the WIPO General Assembly approved the reconvening of the Diplomatic Conference that had been suspended in 2000. The approval of the Assembly had been made according to the recommendation of the SCCR; in other words, on the basis of an understanding that contained a number of elements. First, the 19 Articles provisionally agreed upon in 2000, including the Agreed Statements that had been negotiated then; second, a new Article 12 relative to the transfer of rights, as agreed by the SCCR; third, new Agreed Statements to be drafted for Articles 1, 2 and 15; and last, the inclusion in the Preamble of a clause alluding to the importance of the Development Agenda. The new elements that had been tabled, in addition to those already negotiated in 2000, were largely the result of positions that had been defended by Brazil in the SCCR, either individually or in cooperation with many other delegations from other groups, including during several informal consultations held within the framework of the SCCR. Brazil had brought to the Diplomatic Conference concrete proposals for the drafting of new elements that it believed should be part of the agreement. Brazil had always tried to defend the building of a balanced intellectual property system that would protect both the holders of rights and, at the same time, collective rights. Therefore, it was to be hoped that the Diplomatic Conference, with the available elements, would be able to come up with a balanced text that would open the possibility for Brazil to favorably consider joining the treaty in the future.

74. Ms. WILLIAMS (Barbados) associated herself with the statement made by GRULAC and welcomed the efforts of WIPO to enhance the level of protection provided to performers in respect of audiovisual performances. Barbados looked forward to consensus by Member States on the outstanding issues, and to fruitful discussions over the following few days. The dramatic advances in digital technology and Internet access had created major challenges for performers in the audiovisual industry, but they also offered greater opportunities. The efforts of WIPO, in seeking to address these issues, had included the consistent efforts of the SCCR at the international level. Since 2001, WIPO had engaged in intensive research on the matter, aimed at improving knowledge of the differences at the national level. The new Instrument would strengthen the vulnerable position of performers in the audiovisual industry by providing a clearer legal basis for the international use of audiovisual productions, both in traditional media and in digital networks. That would contribute to safeguarding the rights of performers against the unauthorized use of their performances. At the national level, particularly for smaller Member States, the challenges had been more acute and it was necessary to make changes through careful and methodical amendments to domestic legislation. Barbados was committed to the development of its creative industry sector and had demonstrated its commitment through creating a cultural industries development program. In addition, the development of an appropriate legislative framework and the provision of incentives, as well as funding for

programs and projects, were being addressed. Through the assistance of WIPO, Barbados had benefited from a comprehensive review of its copyright legislation as it progressed toward accession to the two WIPO Internet Treaties. Barbados recognized that though the first hurdle was that of reaching agreement on the audiovisual instrument, the preparation for the assumption of obligations would require changes to national legislation, for which the assistance of WIPO was welcomed.

75. Mr. HUGHES (United States of America) believed that it was a momentous occasion for international intellectual property. It was the first multilateral Diplomatic Conference to establish new substantive legal norms for the protection of intellectual property since 1996. And it was the first multilateral Diplomatic Conference on intellectual property to be held in China. It was the opportunity to finally bring all performing artists into the broad system of protection that had developed since delegates had met in Berne, Switzerland over 125 years ago. The 1996 Diplomatic Conference that had completed the WCT and the WPPT had been unable to find the right formula to bring audiovisual performers into the latter treaty's protection. That work had been left to subsequent discussions leading to the 2000 conference in Geneva, which had successfully finished 19 of the 20 Articles that dealt with substantive matters in the Treaty. But again, complete victory had eluded them. The final question, how to recognize the consolidation or transfer of economic rights to producers, a practice that was critical to all successful audiovisual industries, had been left unresolved. Back in December 2000, many thought that the final question would be resolved in a year or two. But no resolution had been found for over a decade. In 2011, WIPO's SCCR had tried once again, eventually requesting that India, Mexico and the United States of America develop a proposal on how to address the consolidation of rights issue. Nigeria, Brazil and the European Union had also made important contributions to the development of a final proposal. That proposal had been circulated, discussed, and further refined with input from many Member States, producing the draft Article 12, which was unanimously accepted by the SCCR and then by the WIPO General Assembly as the completion of the Treaty's substantive articles. At the same time, Member States had agreed on a package of topics to be addressed in four Agreed Statements and one addition to the Treaty Preamble – additions that would clarify important aspects of the Treaty and recognize the evolving intellectual property system, particularly as it was becoming more important in developing economies. Based on the proposal of the distinguished Delegate from Nigeria, the SCCR – and, subsequently, the General Assembly – mandated that submissions for the Preamble and the four Agreed Statements would be made at least one month before the Diplomatic Conference convened. A series of such proposals was tabled and the United States of America believed that those would provide the Diplomatic Conference with the foundation to complete its work, for which only one week was available. Above everything else, the United States of America wanted to emphasize the tremendous goodwill among the Member States that had brought the process to Beijing. In the past two to three years, delegates had proved that WIPO could be a great forum for constructive development and refinement of the international intellectual property system. On the eve of a great success, the United States of America was aware that the positive result could have not been produced without the intelligence, goodwill, hard work, and good humor of so many delegates from all of the Member States.

76. Mr. BARTON-ODRO (Ghana) emphasized that the negotiations for the protection of audiovisual performances had gone through a long and rather arduous cycle, spanning over a decade. Ghana was very pleased to be associated with a Treaty on the Protection of Audiovisual Performances. The audiovisual industry, which had gone into what would appear to

be a deep slumber some years back, had been rejuvenated. Ghana enjoyed a burgeoning industry employing a considerable number of people. Audiovisual works from Ghana had become popular in Africa and beyond. Consequently, a good number of people both young and old were training and taking up the performing arts as a profession. Additionally, a lot of films were being undertaken in collaborations between Ghana and Nigeria. The success of the audiovisual sector in Ghana had encouraged performers to go abroad and take up roles in other audiovisual industries, as well as to seek protection for their national performances. It was for those reasons that Ghana firmly supported the Treaty.

Third Meeting Thursday, June 21, 2012 Afternoon

77. The PRESIDENT informed the Plenary that that morning, each committee had carried out their work in an orderly manner and that they had been very diligent, for which he was grateful. The President opened the floor for the remaining opening declarations.

78. Mr. RATTRAY (Jamaica) indicated that he was pleased to participate in this very important Diplomatic Conference. He said that Jamaica had been able to contribute positively to the shaping of that historic instrument through the active participation of their representatives, guided by the Jamaican Intellectual Property Office. He considered the Treaty to be an important instrument for the protection of intellectual property rights of all performers in their audiovisual performances. He noted that Jamaica had a very dynamic creative industry and foresaw tremendous benefits for all performers as a result of the enhanced protection that would result from the Treaty. He pointed out that in 2012, his nation was celebrating 50 years of independence, and he viewed his country's ability to participate meaningfully in deliberations of this nature as proof of their success in shaping the international agenda on issues of interest for Jamaica's people. He recognized the importance of those deliberations and what they could mean for Jamaica in the following 50 years. He observed that the provisions of that Treaty were so aligned with his country's intellectual property policy considerations that much of the substantive content was already contained in current revisions to Jamaican National Copyright Law, and a process of ratification was far advanced. He looked forward to the discussions that would take place in the following days, and trusted that at the conclusion of the Diplomatic Conference, they would have successfully concluded a treaty that would effectively meet the needs of the copyright interests in their respective Member States. He thanked WIPO and the host country for organizing the Conference, for the invitations to attend, and for the courtesy extended to all delegations.

79. Mr. ABBASI (Pakistan) thanked and congratulated WIPO and the Government of China for arranging and hosting such an excellent Conference on an important subject. He explained that, as far as Pakistan's position was concerned, although it was compliant with the TRIPS Agreement, it was still not a member of the WPPT. The important aspect of striking a balance between the rights of producers, rights holders and users required more careful consideration.

The Delegation supported the Asian Group, led by Iran (the Islamic Republic of), regarding the deliberations during the coming days of the Conference.

80. Mr. YCAZA MANTILLA (Ecuador) congratulated the President on his appointment and wished him success in his work. The Delegation expressed sincere thanks to the authorities of the People's Republic of China for hosting the current magnificent event and the Secretariat for all the efficient work that had been done. The Delegation endorsed the comments made by the Delegation of Paraguay, on behalf of GRULAC, with special emphasis on the importance of building a balanced intellectual property system, of benefit not only to rights holders, but also to society in general. In that way, intellectual property could achieve its true aim of being a "tool for the development of peoples." That "balance," enshrined in the objectives of the TRIPS Agreement and other intellectual property treaties, should be reflected in the Treaty on the Protection of Audiovisual Performances. It was therefore necessary to make special reference in such an instrument to the WIPO Development Agenda. The Delegation expressed satisfaction at the support offered by the Member States for this kind of instrument, which sought to broaden protection for audiovisual performers, who were closely linked to copyright and were one of the most important links in the great chain of the audiovisual cultural industry, albeit the one that had been most forgotten. Thus, the Delegation endorsed the view that included within copyright the most human of rights. It should therefore be extended to benefit those who through their creative activity contributed to the enhancement of cultural heritage, and should benefit from the efforts, time and sacrifices invested. Throughout the discussions on the Treaty, various meetings had been held with audiovisual performers in Ecuador, who had very limited economic resources and who had made clear their great regret in viewing, from afar, how others actually took advantage and obtained economic benefits from the exploitation of a performance converting into a "recorded audiovisual fixation." The Delegation encouraged Member States to continue to make progress and take firm steps towards consolidating a balanced intellectual property system with the adoption of other instruments designed to achieve the Millennium Development Goals for the benefit of the most neglected sectors of modern societies. That included instruments for the inclusion of copyright exceptions and limitations which, owing to the shortage thereof, had deprived persons with disabilities of opportunities to participate in culture, contribute fully in terms of their capacities, and integrate into the knowledge-based society. The Delegation recalled that it was the obligation of States to take all relevant measures, in accordance with international law, so as to ensure that laws for the protection of intellectual property rights did not constitute an excessive or discriminatory barrier for access to culture, but were instruments for the economic, social and cultural development of countries. While being effective, the instrument should balance private and public interests, and also the unfailing observance of standards relating to human rights. In view of what had been said, the Delegation was certain that in the very near future, subject to a positive outcome to the current Diplomatic Conference, delegations would be invited to a further Conference where the multilateral standards seeking the adoption of a treaty on exceptions and limitations to copyright for persons with visual disabilities would be adopted, since that constituted real commitment on the part of countries and also the whole of the international community.

81. Mr. AHMAD (Bangladesh) supported the statement made by the Delegation of Iran (the Islamic Republic of) on behalf of the Asian Group. He highlighted the current universal agreement on the need for audiovisual performers' rights to be suitably protected and the failure to adopt an appropriate international legal instrument for that purpose. He hoped the proposed new Treaty would strengthen the position of performers and guarantee their rights in the

audiovisual industry, by providing a clearer legal basis for the national and international use of audiovisual productions, both in traditional media and in digital networks. He emphasized that the instrument should also contribute to safeguarding the rights of performers against the unauthorized use of their performances in different forms of audiovisual media. He stressed that the proper balance between rights and obligations should be maintained in the instrument to ensure its smooth application and fairness, and he remarked that any norm-setting activity must take into consideration issues related to the overall development of all the Member States, especially the least developed countries. He was pleased that the spirit of the WIPO Development Agenda would be reflected in the Preamble of the Agreement and that the Agreement regarding the transfer of the rights from performers to producers, in audiovisual fixations, gave Member States the required space and flexibility to address the interests of their audiovisual performers, according to their domestic circumstances and considerations. He was also pleased that Member States would be able to provide for audiovisual performances the same exceptions and limitations they provided for copyright. He was of the opinion that a successful negotiation of the Agreement on audiovisual performances would also significantly contribute to reaching understanding in other spheres of negotiation, such as limitations and exceptions for persons with print disabilities, the protection of broadcasting organizations, genetic resources, traditional knowledge and folklore. Those were other areas Member States could contribute to with their collective understanding.

82. Mr. EZEKUDE (Nigeria) supported the statement made by the Delegation of Egypt on behalf of the African Group. He highlighted the demand for creative works and performances from all different parts of the world since the conclusion of the WCT and the WPPT. He recalled that although the 1996 Diplomatic Conference did not go as far as extending the provisions of the WPPT to audiovisual performances, it had recognized the importance of performance and the need for the protection of performance. That understanding of nondiscrimination had led to the convening of a Diplomatic Conference in December 2000 to give audiovisual performers the same benefits that had already been extended to their counterparts in phonograms. He remarked that the subject of audiovisual performances was more relevant today in Nigeria than it had been in 1996 and 2000, as the audiovisual industry in Nigeria had not only gained global recognition as one of the top three in the world, but was a flagship of the creative industries in the country and an example of how the copyright system could be adapted and used by any country to become a leading player on the global stage. He informed the Plenary that Nigeria was in the process of revising its copyright law and was expecting the outcome of the Treaty to feed into that revision process. Finally, he expressed Nigeria's positive and constructive engagement towards achieving the mandates of the Diplomatic Conference, to finalize a treaty for the protection of audiovisual performances.

83. Mr. MARUTA (Namibia) supported the statement made by the Delegation of Egypt on behalf of the African Group. He observed that actors and performers from developing and developed countries alike would benefit from the adoption of the complete audiovisual Treaty, and noted WIPO's instrumental role in facilitating the process for the adoption of the Treaty. He hoped that the text would not be reopened and that the negotiation would finally be concluded in Beijing. He observed that the adoption of the Treaty would stimulate the majority of the youth to actively engage in audiovisual performances, leading to job creation, as many of the artists would feel more protected and would become more creative. He remarked that when adopted, the Treaty would also allow culture and folklore to be shared and promoted among nations. Finally, he appealed to all Member States, in the spirit of cooperation, to adopt the Treaty without further delay.

84. Mr. LIM (Republic of Korea) stated that the Republic of Korea wanted to reemphasize the importance of achieving appropriate balance not only between rights holders and users, but also among the Member States with different levels of development engaged in the discussions to address the most pressing issues imposed by technological developments, which constantly change the way to use and protect audiovisual materials. He noted that discussions had already taken place over some challenging issues, such as the transfer of rights. He expressed the Republic of Korea's belief that constructive discussion and common work during the Conference would lead to a solution as important as the WCT and WPPT, aimed at strengthening the balance in the system, while giving national legislators sufficient guidance and discretion concerning the protection of audiovisual performances. For the Korean Delegation, the various proposals put forward had allowed the gap to become narrow enough to adopt a treaty that would provide adequate and effective protection.

85. Mr. KHOUBKAR (Iran (Islamic Republic of)) supported the statements made on behalf of the Asian Group and the Development Agenda Group. He stated that technological developments had led to the emergence of various new modes for delivering aural and audiovisual performances. While those developments had generated new sources of income for performers, they had also allowed performances to be potentially exposed to misuse and piracy. That had made legal protection imperative, taking into account the needs and priorities of countries in addition to performers' claims to have adequate and effective protection, in parallel with technological development. The WPPT had failed to provide a viable legal framework for the protection of rights in audiovisual performances and their fixation. Protection of performers' rights with respect to their audiovisual performances was already in a draft bill on copyright and related rights in the Islamic Republic of Iran. Upon the final adoption of the bill, Iran would be among those countries where performers were protected against the infringement of their rights, promoting the development of the national audiovisual industry. The new WIPO Treaty provided a legal basis for supporting the interests of audiovisual performers, since it accorded both economic and moral rights for the first time at an international level. Those rights allowed them to acquire concrete benefits from any new form of exploitation of their performance, particularly in the online and on-demand environments, and it guarded their reputations against any prejudicial measures. Audiovisual performers, producers and broadcasting organizations across the globe would benefit from the new Treaty, which would provide them with increased financial rewards and enhanced incentives to create audiovisual works. The Delegation of Iran (Islamic Republic of) strongly believed that any arrangement on transfer of rights should be drafted in a way that balanced the respective interests of the audiovisual performers and those of the producers and the general public, preserving the supremacy of the national legal systems in determining the priorities and concretizing the search for balance. The Delegation hoped that the negotiations in the Conference would lead to the adoption of the Treaty; particularly those provisions focusing on a new article on transfer of rights, the additional joint declarations, and the additional text in the Preamble. That would ensure harmonization of protection for beneficiaries at an international level. The Delegation stressed the importance of the WIPO Development Agenda in norm-setting processes, and reaffirmed the notion that had been stipulated in the Development Agenda recommendations regarding norm-setting: activities should be supportive of the development goals agreed within the UN system and fully bound by Cluster B on norm-setting flexibilities, public policy and public domain.

86. Mr. ADELLO (Ethiopia) supported the statement made by Egypt on behalf of the African Group. He indicated that his Delegation placed high importance on the specifics of the

international agreement on the protection of audiovisual performances, in order to strengthen the critical position of performers in the audiovisual industry. He hoped that the Diplomatic Conference would be successful in reaching the desired objectives, and agree on the adoption of the Draft Treaty.

87. Mr. NAMJIL (Mongolia) noted that Mongolia had taken a democratic path since 1992, adopting a constitution, as well as adopting laws on intellectual property, developing that area of the law which focused on the individual. In 1993, Mongolia had adopted a law relating to copyright, which guaranteed copyright for artistic performances and literary works. Over the past 20 years Mongolia had achieved a great deal, and because of the many efforts in the area of awareness raising on intellectual property, there was now a general knowledge of it, and a good intellectual property legal system, which ensured intellectual property rights, created collective management organizations, and established the conditions for performances of works and the transfer of payments for performances. He stressed the necessity of protecting these rights in the easiest, cheapest and most effective manner. The possibility of the free dissemination of authors' works throughout the world via the Internet had become a reality. Therefore it had become necessary to regulate copyright and related rights at the global level. The organization of the Diplomatic Conference constituted an extremely important landmark in the history of intellectual property, as countries had the opportunity to address issues relating to access to information and the importance of regulating the interests and possibilities for least developed and developing countries. His Delegation supported the adoption of the Treaty at the Conference and was confident that it would be possible to do so.

88. Mr. JOSHI (Nepal) stated that the Government of Nepal had enacted the Copyright Act in 2002 for the rights of performers and recording producers. He noted that singers, dancers and actors had limited protection for their performances at the international level, and that the new international Instrument would further strengthen the position of performers in the audiovisual industry by providing a legal basis for audiovisual performances, both in traditional media and over digital networks at the international level. Such an instrument would support the rights of performers against the unauthorized use of their performances and would also contribute to creating a just system.

89. Mr. TRAORE (Mali) congratulated the President on his election and observed that his rich experience and the trust placed in him increased the Delegation of Mali's belief that the success sought by all participants would be achieved. The Delegation paid tribute to the Director General of WIPO and other staff, and thanked the government and people of the People's Republic of China for their legendary hospitality and the facilities that had been made available. With the development of the audiovisual sector, the protection of performers' rights had become one of the stated objectives of the Organization, and even a challenge. That made clear the importance of the current Conference, since it was necessary to agree on an international legal instrument enshrining the inalienable rights of actors in the audiovisual sector, which had remained untouched in relation to other intellectual property assets. Mali was a country with a wealth of culture. As a result it had not waited for a treaty to be concluded before taking action on the protection of performers' rights in the audiovisual sector. Law No. 08-024 of July 23, 2008 establishing the Rules Governing Literary and Artistic Property guaranteed the management of such rights without the need for the fixation of a work, insofar as a performance was made as part of a broadcast. It should also be pointed out that Law No. 08-024 preserved authors' rights up to 70 years after their death. Owing to the progress made in the digital sector, on the one hand, and the ever more important role of the audiovisual sector in the economy and

culture on the other, the Delegation of Mali fully supported the statement made by Egypt, on behalf of the African Group, and, in particular, as regards the least developed countries. Since it was the culmination of a long negotiating process, the Delegation hoped that the Conference would be successful and would lead to the adoption of the proposed Treaty.

90. Mr. PHUOYAVONG (Lao People's Democratic Republic (the)) recognized the need to introduce new international law in order to provide an effective solution to the issues raised by the economic, social and technological developments relating to information and communication technology. He stressed the need to maintain a balance between the rights of performers in their audiovisual performances and the larger public interests, particularly in education, research and access to information. He welcomed WIPO's efforts to improve actors' and other performers' rights in audiovisual productions and to establish a new international treaty in this regard.

91. Ms. GASIM (Sudan) stated that developing countries needed to improve their intellectual property systems relating to the rights of authors and performers. This was necessary if they were going to keep up with the pace of technological development. Quite often, performers transferred their rights through contracts that were not in their best interests. Member States should spare no efforts to address that issue and recognize the synergy between laws relating to producers, authors and performers. Without producers, artistic works would not be known. The whole industry was vital and it was threatened by the scourge of piracy.

92. Mr. HERMANSEN (Norway) indicated that his Delegation was pleased to have come to the Conference to finalize a treaty securing the rights of audiovisual performers. That would take the international community another step towards the full protection of neighboring rights in the digital area, and would emphasize the importance of performing artists' contributions to the creative process of content production. The Basic Proposal for the substantive provisions of the Treaty rested on the 20 fundamental Articles, together with the established agreed statements.

93. Mr. RI (Democratic People's Republic of Korea) congratulated Mr. LIU Binjie on his election to the office of President of the Diplomatic Conference and thanked the Government of the People's Republic of China for the warm hospitality that had been provided. The Delegation also expressed appreciation for the efforts made by WIPO's Director General and his Secretariat to prepare the Draft Treaty on Audiovisual Performances. The long-standing efforts of the international community to protect audiovisual performances would finally lead to the adoption, during the Conference, of the WIPO Treaty. Discussions on the Draft Treaty, which had lasted for more than 10 years, had confirmed the importance of and need for the protection of the lawful rights of performers, against the misuse of audiovisual works that formed part of the intellectual property of humanity. The unanimous opinion consolidated throughout the discussions on the Draft was the need to establish an international legal instrument able to effectively deal with acts infringing the rights of performers, and that need was becoming ever more acute with the swift changes in information technologies and the expansion of the category of audiovisual works and the means of communication to the public. The Delegation hoped that the WIPO Treaty on Audiovisual Performances submitted to the Conference would reflect the interests of all the Member States, so that it would be adopted as the international legal instrument contributing to the protection of performers' rights and the specific development of arts and culture. The Delegation was of the opinion that in implementing the Treaty, attention should be paid to the following issues. First, the internal legal measures taken by each Member State should be respected and encouraged, based on the principle of respect for the countries

concerned. Given that the main objective of the Treaty was to pre-empt acts infringing audiovisual works, by strengthening the role and responsibility of the government, particular attention should be paid to enhancing capacity for implementation in the countries concerned and encouraging the adoption of appropriate measures corresponding to the specific reality in each country. Second, the principle of respect for the history, traditions and cultural variations of each country must be maintained. Third, WIPO should strengthen cooperation with competent international organizations, including the United Nations Organization for Education, Science and Culture (UNESCO), and guarantee the link with existing international agreements, inter alia, the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, in order to increase the effectiveness of the application of the Treaty. With regard to the protection of audiovisual performances, the Democratic People's Republic of Korea had defined the protection of performers' rights at the time of the enactment of the National Law on Copyright in 2001, and the government continued to take specific measures towards its implementation. The Delegation applauded the adoption of the WIPO Treaty on Audiovisual Performances at the Diplomatic Conference and expressed the belief that it would contribute significantly to the international efforts to protect intellectual property.

94. Mr. MANGOTA (Zimbabwe) urged the Conference to get things right for the benefit of all performers whose well-being might depend on its deliberations in the coming days. Artists played a very important role in the development of society. Art had no race, language or dialect. Unfortunately, despite noble efforts, audiovisual performances continued to remain exposed, lacking any instrument that could guarantee exclusive rights to performers. Performers should enjoy the exclusive right to authorize access to their works, and to control how and when their works were used. Developing countries needed to tap into the enormous potential of their creative industries quickly and needed to find ways to harness that potential. Today's heroes were creators, performers, actors and musicians. They influenced fashion, food and even brands. Piracy had become more sophisticated and more lucrative than had ever been the case before. Countries could no longer rely only on ordinary laws to combat that menace. The signing of a treaty for the protection of audiovisual performances was a starting point.

95. Mr. ZOUITER (Syrian Arab Republic) supported the statement of the Delegate from Iran (Islamic Republic of), on behalf of the Asian Group, to promptly adopt and ratify an international treaty for the protection of audiovisual performances. He stated that a month ago, his government had enacted a new law on the protection of copyright and neighboring rights that was aligned with the most recent developments in relevant fields.

96. Ms. JENKINS (Saint Kitts and Nevis) supported the statement made by Paraguay on behalf of GRULAC. Saint Kitts and Nevis, like all Caribbean territories, understood the importance of intellectual property to their cultural, social and economic development. Countries were moving towards the establishment of effective intellectual property regimes with strong legislative frameworks for the protection of intellectual property rights, including the involvement of the judiciary and enforcement agencies. The protection afforded by the Berne Convention and the WPPT was not extensive enough to protect creators in the current digital environment. Audiovisual performers were currently excluded from protection of their performances. Consequently, the adoption of an international treaty would be tremendously beneficial to them. After much debate, deliberation, negotiations and consultations over the last years, the government of St. Kitts and Nevis was anxiously looking forward to the conclusion of a relevant treaty.

97. Ms. RICO (Mozambique) stated that for the past 11 years, her government had been making a serious effort to protect copyright and related rights based on a law from 2001. Mozambique paid great attention to all matters related to copyright protection for performers, and hoped that with the adoption of the new international Instrument, adequate protection would be given to audiovisual performers.

98. Mr. IANOV (Ukraine) thanked the WIPO Secretariat for the work done on the protection of audiovisual performances and also for the preparation of the numerous documents required for holding the Diplomatic Conference. Ukraine welcomed the significant success achieved by WIPO in relation to developing a balanced and accessible international intellectual property system, strengthening the global system of legal protection for intellectual property, and also promoting the effective use of intellectual property rights throughout the world, by providing stable and harmonious cooperation between different countries and regions. The Delegation expressed its satisfaction at the results of the fruitful work done by the SCCR, and was grateful for the inclusion of the proposals made by Ukraine in the draft version of the Treaty. The Delegation considered it essential to adopt an international treaty administered by WIPO, which would strengthen the position of performers in relation to audiovisual works, and provide such performers with a clear legal basis for the protection of their performances from unsanctioned use. The Delegation also pointed out that administering the rights of performers in audiovisual works, at the international level, would be a decisive step on the road to guaranteeing the right of performers to remuneration; a right only enjoyed previously by authors of audiovisual works. In conclusion, the Delegation wished all participants successful work that would generate results during the Diplomatic Conference and, consequently, lead to the adoption of a final international instrument, which would resolve in an appropriate manner the issues that arose in connection with the use of audiovisual performances, both in traditional mass media and also over digital networks.

99. Mr. GEORGE (Botswana) stated that the Delegation aligned itself with the statement delivered by Egypt on behalf of the African Group. The Delegation recognized the fact that the Treaty aimed to address the existing imbalances in the ownership of economic rights between producers and performers of audiovisual performances. As a developing country, with an emerging creative industry, Botswana had over the years witnessed untold economic exploitation of performers by producers, and remained hopeful that a treaty would mitigate those exploitations. The Delegation was of the view that the milestone achievement of the finalization of the more than decade-old Draft Treaty on the Protection of Audiovisual Performances would grant protection to performers' economic rights in both sound and visual fixations. At that time, in many instances, all economic rights in audiovisual recordings were owned only by the producer, who could freely exploit audiovisual recordings commercially anywhere in the world, with no financial remuneration accruing to the performers. The Delegation expressed its support for the Treaty based on the fact that copyright was a branch of intellectual property that most in Botswana's creative industry found easier to venture into because of its simplified protection regime. He believed that the proposed Treaty would extend protection to the area of intellectual property most frequently used in Botswana. He observed that over the years, Botswana had made efforts to provide adequate protection to copyright owners, as evidenced by the promulgation of the Copyright and Neighboring Rights Act CAP 68:02 of 2007. That Act provided for the establishment of both the Copyright Office and the Copyright Society of Botswana (COSBOTS), the introduction of a security device (hologram) to authenticate sound and audiovisual recordings, and the appointment of Copyright Arbitration Panel members, for the expeditious and affordable settlement of copyright-related disputes. He informed the

delegates that all the copyright structures were in place. That had enabled them, for the first time, to destroy pirated sound and audiovisual recordings in CDs and DVDs, which had been found on sale in the market in March 2012. He stressed that the government had made a commitment to continue monitoring the implementation of the Act and improving the copyright protection environment in Botswana. He stated that Botswana's position was that signing the Treaty should not be seen as the end of the processes they had started in 1996, but rather as a new beginning to meaningfully improve the lives of marginalized performers in developing countries such as Botswana. WIPO should make deliberate efforts to assist developing countries in domesticating and implementing the articles of the Treaty for the benefit of their constituents. Additionally, more efforts should be made to ensure that the articles of the Treaty were in sync with other WIPO treaties and protocols, so that Member States could see the benefit of signing and ratifying the Treaty. The Delegation looked forward to the finalization of the long-awaited Treaty on the Protection of Audiovisual Performances.

100. Mr. MUIGAI (Kenya) supported the statement made by Egypt on behalf of the African Group. The previous 12 years had been quite difficult for the protection of audiovisual performances, especially with the continuous growth and use of digital networks, exacerbated by high-speed Internet and the proliferation of mobile phone technology, along with the falling costs of telecommunications and other equipment. That had made the reproduction and dissemination of audiovisual works faster and cheaper, but not necessarily for the benefit of rights holders. The audiovisual industry in Africa, including Kenya, had experienced exponential growth, and protection was required not just in Kenya, but all over the world where works could be accessed and reproduced. He noted that the rights holders, and the country as a whole, joined the others in welcoming the conclusion of the Treaty to ensure that their rights were protected all over the world. He thanked WIPO and the other delegations, which had made contributions to the contentious Article 12 in the months leading up to the Conference.

101. Mr. BLANCAFLOR (Philippines) stated that under the Chair's competent and judicious leadership, the Diplomatic Conference would achieve its objective of concluding the long-awaited Treaty. The Delegation expressed its heartfelt gratitude to WIPO, and its visionary Director General, for inviting the Philippines to participate in the historic event, as well as for the support and collaboration that WIPO had given the nation through the years. The hard work of WIPO was most obvious and well appreciated. The Delegation also conveyed its deepest appreciation and congratulations to the Government of China and the Municipal Government of Beijing for the excellent preparations that had been undertaken and the gracious hospitality that had been shown to the Delegation of the Philippines from the moment they had arrived in that great land. The Delegation wished to join the other delegations in complimenting WIPO and the Government of China for all they had done to ensure the success of the Conference. Although the Treaty had been long delayed, and the delegations and WIPO had endured 11 years of painstaking groundwork to finally reach a consensus, it would never be too late to conclude such a milestone agreement. The Treaty would be a very timely instrument, considering that the Internet now played such a crucial and indispensable part of modern life, influencing personal lives, daily work and the way business was conducted by individuals and nations. Most information and entertainment was now obtained from the audiovisual content available on the digital superhighway. At the local level, the conclusion of the Treaty would be very timely for the Philippines, in view of the country's ongoing process of amending its Intellectual Property Code, particularly the portion on copyright law, by which the Intellectual Property Office would be granted enforcement powers, and would establish a Copyright Bureau, aside from incorporating the salient provisions of the WIPO Internet Treaties. The waiting had not been in vain. On that

positive note, the Philippines looked forward to the successful conclusion of the Diplomatic Conference.

102. Mr. MUNKHONDIA (Malawi) thanked WIPO for organizing the Conference, which had been stalled for such a long period of time. The Delegation also thanked the Government of the People's Republic of China for hosting the important Diplomatic Conference and for the warm hospitality accorded to the delegates. The Delegation of Malawi strongly associated itself with the statement made by Egypt on behalf of the African Group. The importance of according adequate protection and remuneration to creativity, especially in the audiovisual sector, could not be overemphasized. Malawi, therefore, looked forward to the conclusion of the international Instrument for the protection of audiovisual performances.

103. Mr. BEMANYA (Uganda) commended all the delegates who had come from various countries and were set to achieve the noble goal on behalf of performers and artists. Uganda associated itself with the desired outcome of a successful treaty. The Delegation pointed out that the timing of the Conference – and indeed of the Treaty – could not have been better, since the emergence of the digital age had not only affected developed economies, but also developing economies, leaving the creative industries in a disadvantaged position. As a result, performers had suffered considerably, since they had not been guaranteed full enjoyment of their economic and moral rights. Uganda associated itself with the submissions that the Rome Convention and WPPT had not catered to important issues arising from the protection of audiovisual performances. Accordingly, the long process that had started more than a decade before, seemed to offer the only hope to address the issue of audiovisual performance protection globally. For that reason, the Delegation praised every effort that had been expended on it. The question of copyright protection had been dominating the stage in society and as other delegations had said, there was no doubt that it should be addressed. The Delegation looked forward to an expedited realization of the Treaty, which was so eagerly awaited by performers and artists. Uganda aligned itself with the statement delivered by the delegation of Egypt on behalf of the African Group.

Agenda item 10: Open Declarations by representatives of Observer Entities (continuation)

104. The PRESIDENT opened the floor to intergovernmental organizations.

105. Mr. MYERS (International Labor Organization) saluted the work of WIPO, its Member States and other organizations in bringing the protection of audiovisual performances back to the forefront, following the December 2000 Diplomatic Conference. The proposed WIPO Treaty had come at a time when such protection, at the international level, was essential to employers and workers in the creative industries, in a constantly changing media environment. Since the 1920s, the International Labor Organization (ILO) had maintained that audiovisual performances should be protected. In fact, in 1939, the ILO had prepared the way for an international labor convention and recommendation on the rights of performers in broadcasting, television and the mechanical reproduction of sounds, to be discussed at an international conference in 1940, and to be adopted in 1941. However, war had prevented those discussions from taking place. Twenty years later, the 1961 WIPO-ILO-UNESCO Rome Convention was adopted, and its 50th anniversary had recently been celebrated. The Rome Convention was, and still remained, a landmark Treaty, illustrating the international community's commitment to protect the rights of performers, phonogram producers and broadcasters, with over 90 State Parties. The WPPT of 1996 was a very welcomed first step to update it, and the ILO looked forward to further

improvement in protection for broadcasting organizations through a forthcoming WIPO Diplomatic Conference. Under Article 32 of the Rome Convention, the ILO, UNESCO and WIPO constituted the joint Secretariat of the Intergovernmental Committee of the Rome Convention. In 2009, the Rome Convention Committee decided that its next session would be held “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.” The ILO believed that the Beijing Diplomatic Conference would adopt the proposed Treaty, and that it would be widely ratified, thus enhancing the protection of performers, producers and other rights holders around the world, and promoting the development of intellectual property protection, employment, economic success and creativity in the field.

106. Ms. MARLOW (International Federation of Film Producers Associations) stated that the business sectors represented by the International Federation of Film Producers Associations (FIAPF) were dedicated to creatively developing, financing, producing and disseminating new, original content, to respond to the growing global demand for filmed entertainment, made to professional standards. Within the FIAPF family there was a great diversity of business models, but they all had in common a commitment to observe fair and effective practices in hiring and remunerating talent working on new productions, including audiovisual performers. FIAPF, therefore, welcomed that WIPO Member States had convened the Diplomatic Conference with a view to update the protection of audiovisual performers to the standard established in the WIPO Internet Treaties of 1996, which catered, in particular, to developments in the online dissemination of creative works. It was time for the worldwide community of screen actors represented by FIAPF to receive effective legal protection. FIAPF also applauded the commitment of Member States, as reflected in the mandate of the General Assembly, not to reopen negotiations on the 19 articles that had been the subject of a provisional agreement in the Diplomatic Conference of 2000, and to include the new Article 12 on the consolidation or transfer of rights in the provisional agreement. The Delegation was aware that several outstanding issues needed to be solved, namely a new Preamble highlighting the importance of the Development Agenda, and the Agreed Statements relating to Articles 1, 2 and 15 of the proposed Treaty. By the manner in which the various proposals had been tabled prior to the start of the Diplomatic Conference, the spirit of cooperation between Member States seemed to have prevailed. FIAPF urged all Member States to work together in a constructive spirit and to adopt language that maintained absolute consistency with the international copyright framework. Creative entrepreneurs participated significantly in wealth and job creation around the world; they were willing risk-takers in the high-stake endeavor of transforming creative visions into an immersive consumer experience. Finalizing the Treaty in a manner consistent with the existing global legal framework would strengthen the entire entrepreneurial edifice of the audiovisual industries, thereby supporting their growing contribution to economic development the world over.

107. Mr. SHAPIRO (Motion Picture Association) said that the Motion Picture Association (MPA) members were committed to ensuring that creative participants were appropriately recognized and remunerated for their contributions to audiovisual works. In the United States and certain other countries, that was ensured through individual contracts and a process known as collective bargaining that also provided a wide range of protection to performers, other creative contributors, and members of production crews. The collective bargaining agreements provided a basic level of compensation and benefits, including compensation for exploitation of the audiovisual works in ancillary and supplemental markets; compensation and benefits payable under individual

agreements needed to exceed that floor. The MPA recognized performers' pledge to update the level of copyright protection applicable to their performances internationally, and was committed to a successful outcome of the Diplomatic Conference, in a manner consistent with the international copyright framework. In December 2000, after a long process of preparation, WIPO Member States had engaged in painstaking negotiations and made serious compromises on a number of difficult issues. Although they were not able to reach final agreement on a full package, they did reach provisional agreement on 19 articles. The Representative believed that the process could only go forward on the basis of the provisions already agreed upon in 2000 and in 2011. The 19 Articles, and the new Article 12, formed the basis of a number of compromises that could not be undone or tampered with by conflicting or inconsistent Agreed Statements or preambular language. That was the only way to honor the WIPO General Assembly's mandate, and thereby ensure the success of the Diplomatic Convention. Consistent with the Assembly's mandate, the Diplomatic Conference should be focused on resolving outstanding items. The MPA noted the proposals made by Member States, and reserved its position on those proposals for the substantive discussions in Main Committee I. It was convinced that if the remaining items were resolved in line with the international copyright regime, and the overall WIPO mandate, consensus on a treaty on the protection of audiovisual performances was within reach during the Diplomatic Conference.

108. Ms. THOMSEN (International Video Federation) noted that International Video Federation (IVF) members were committed to ensuring that creative participants in collaborative efforts were appropriately recognized and remunerated for their contributions to the resulting audiovisual works. That was ensured through a variety of mechanisms depending on national traditions, including individual contracts and collective bargaining arrangements. The IVF recognized performers' desire to update the level of copyright protection of their performances at the international level. The IVF had been present at the opening of the Diplomatic Conference in 2000, and it remained committed to a successful outcome of the current Diplomatic Conference in a manner consistent with the international copyright framework. The negotiations in 2000 had resulted in much progress. Although Member States had been unable to reach a final agreement on a full package at that Conference, they had reached provisional agreement on 19 very important Articles. The IVF welcomed the agreement on all Articles, including Article 12 on the consolidation of rights, which had been adopted by consensus at the Twenty-Second Session of the SCCR in June 2011. Those provisions were as relevant in 2012 as they had been in 2000. The agreed Articles formed the basis of a number of compromises that should not be undone. Consistent with the Assembly's mandate, the agreed Articles, including existing Agreed Statements, should not be reopened, watered down or reinterpreted by conflicting Agreed Statements or preambular language. In accordance with the Assembly's mandate, this Diplomatic Conference should therefore be focused on resolving outstanding items mentioned in the mandate in a manner consistent with the already agreed articles and WIPO's general mandate. The IVF took note of the Member States' proposals and reserved its position on those proposals for the substantive discussions in Main Committee I. Audiovisual performers had been calling for an update of the protection of their performances for nearly two decades. If the remaining items were resolved in line with the international copyright framework, WIPO's overall mandate, and the already agreed articles, consensus on a treaty on the protection of audiovisual performances was within reach during the Diplomatic Conference.

109. Ms. BOMMELAER (Internet Society) welcomed the commitment of Member States to introduce international rules to provide adequate and balanced solutions for the protection of performers in their audiovisual performances. At that point in time, it was critical to take into

account new economic, social and technological developments, such as the Internet and the digital revolution. Internet Society (ISOC) was a nonprofit organization founded in 1992. Its mission was to promote the open development, evolution, and use of the Internet around the world. It facilitated open development of standards, protocols, and the technical infrastructure of the Internet. ISOC also supported education and public policy development, especially in developing countries. It worked with governments, national and international organizations, civil society and the private sector to pursue its objectives in a collaborative and inclusive manner. That was the multi-stakeholder model of the Internet ecosystem. As Member States elaborated their policy frameworks, ISOC invited them to engage with all stakeholders, to ensure that the human capacities enabled by the Internet were preserved, including the ability to connect in an information society to support human development and protect human rights, the ability to communicate by enabling communication on a free and unprecedented scale, the ability to innovate without permission, and the ability to share. Specifically, ISOC called for a fair and equitable intellectual property rights framework that respected the broader public interest. It was important that governments implementing policies with a role for Internet intermediaries did so in a transparent and consistent manner that respected fundamental rights and the due process of law. Coherent policies at national and international levels were needed to minimize uncertainty for Internet intermediaries and other stakeholders, and to foster Internet access and use, online innovation, investment, competition, and the free flow of information across borders.

110. Mr. STERLING (Asian Pacific Copyright Association) reminded the delegates of the occasion when the European explorers had first seen the Pacific Ocean, with its promise of benefits and its challenges, so it was with the proposed Treaty. It brought with it the prospect of great benefits and also required the delegates to meet the inspiring challenges that were before them. The Asian Pacific Copyright Association (APCA) strongly supported the proposed Treaty. As he had been present at the 1961 Rome Diplomatic Conference, Mr. Sterling was able to remind the delegates that it was a great moment to see that the work which had begun 51 years ago was now being fulfilled by WIPO with the support and hospitality of the People's Republic of China. As the State Counselor had said the previous day, recognition of IP was a mark of the degree of civilization of a country.

111. Ms. SLEMAN (Association Nationale des Artistes Interprètes) expressed Association Nationale des Artistes Interprètes's (ANDI) appreciation for the constructive and positive statements made in regard to performers being able to enjoy minimum protection for their audiovisual performances. For ANDI, the adoption of the Treaty was a fundamental issue that could not be postponed. Mexico had a great cultural tradition and had consolidated its position as a power in the audiovisual production sector, mainly through soap operas, which it exported to many countries. It was through such audiovisual works by performers that the true image and culture of the country was known. Ms. Sleman thanked her national authorities, especially the diplomatic representation and the National Copyright Institute, and GRULAC, for the clear position they had expressed in support of performers' rights. She pointed out that if performers were in need of anything, it was legal certainty for their professional future, something that was always a matter of uncertainty and complexity. She expressed the hope that the climate of understanding fostered by the Member States would result in a successful conclusion to the Diplomatic Conference.

112. Ms. KIMURA (The Japan Commercial Broadcasters Association) observed that the protection of audiovisual performances had been a daunting challenge for the international community after the establishment of the WCT and WPPT. At the end of 2000, when the

Diplomatic Conference on Audiovisual Performances had been held, Member States had almost reached an agreement, which unfortunately, had been unsuccessful at the last moment. After more than a decade, Member States were in Beijing with the opportunity to try again. The Japan Commercial Broadcasters Association (JBA) had been consistent in its support of the protection of audiovisual performances as another related right.

113. Mr. NOMURA (Center for Performers' Rights Administration of Geidankyo) reminded the delegates that the international Treaty on Audiovisual Performances should have been concluded in Geneva in December 2000. Twelve years later in Beijing, he was prepared again for the conclusion of the Treaty. In the 15th century, an Asian performer had observed that it was image, sound and soul, and their combination, that represented the beauty of performances. In 1996, the WPPT had dealt with the audio part of performances but had left aside the image. He hoped that this gap would be filled by the Diplomatic Conference in China.

114. Mr. PÉREZ-SOLÍS (Ibero Latin-American Federation of Performers) thanked the authorities of the People's Republic of China for their extraordinary welcome, which had followed a plane journey of thousands of kilometers, more than 11 hours duration, and was subject to different time zones, that changed daily habits. The Federation, which included 19 Latin American countries, Spain and Portugal, together with 21 performers' rights management societies (mainly in the music sector), thanked the Director General for the excellent work he had done over the previous few years, and the patient and consistent manner in which he had gone about it, in order to regain the initiative and trust of States and produce the long-awaited Treaty on Audiovisual Performances. Following the previous failures to conclude the Treaty, due to discrepancies in the legal regulation of the transfer of rights from performers to producers, even the SCCR had become demoralized when one State had requested the postponement *sine die* of the Diplomatic Conference. Thanks also needed to be expressed to the Chair of the SCCR, Mr. Manuel Guerra Zamorro from the Delegation of Mexico, who, while presiding over the Committee in June 2011, had managed to re-establish the initiative, eliminate differences and remove the existing obstacle of the transfer of rights through a joint initiative by the Government of Mexico, together with the United States of America and India. That joint initiative provided a legal text on the disputed Article 12, and offered broad solutions to consolidate the Treaty. That text had been approved by the General Assembly of the Member States in September 2011, which resulted in the mandate to hold the current Diplomatic Conference, leading to an audiovisual treaty. In most of the statements that had been delivered, reference had been made to the fact that the Treaty under consideration had stemmed from the 2000 Diplomatic Conference, which had been postponed, and that the current Conference was a continuation of the earlier one. However, that did not correspond to the facts. The truth was that in 1992, the President of the Ibero Latin-American Federation of Performers (FILAIE), Luis Cobos, had sent a letter requesting the SCCR, in its program of work, to produce a model law relating to the protection of producers of sound recordings, which had been agreed in Geneva between July 15 and 19, 1992, and provided performers with room for maneuver. That letter had received a response on July 6, 1992, from the late Dr. Arpad Bogsch, who said that the FILAIE proposal would be forwarded to the WIPO Governing Body for consideration during the 1994–1995 biennium. The Representative recalled that in 1971, producers had already obtained a treaty providing protection, from which performers were absent. Subsequently, on September 29, 1992, the Deputy Director General of WIPO, Mr. Ballesteros, informed Mr. Cobos that the Organization would carry out the work through the Committee to prepare a treaty protecting performers and producers in the face of the changes that had occurred since the 1961 Rome Convention, and above all in the digital field. Work had therefore begun in the committees

between 1993 and 1996, in which performers' fixations in the form of their performances, were defined as both sound and audiovisual, with dual wording in each article, referring to phonograms and videograms, so that the Treaty would cover this dual consideration. Prior to the current Conference, the position of performers had been lamentable in relation to legal protection. The famous Rome Convention, which was supposed to protect performers, had discriminated against them in relation to two other groups of rights holders, who had been the subject of the Treaty, that is, broadcasters and producers of phonograms. According to the Rome Convention, those entities had exclusive rights to authorize or prohibit, while performers had only the right to oppose unauthorized uses. There was also a complete absence of moral rights, the term of protection was limited to just 20 years and, finally, the famous Article 19, in which a performer authorized an audiovisual fixation, would not be subject to the application of Article 7, which provided performers with the limited right of opposition. That was the situation that the Diplomatic Conference was attempting to correct in Beijing. The transfer of rights in the draft form of Article 12 allowed a broad range of legal resources and solutions of all kinds that would facilitate the adoption of the Treaty. That Article, which perhaps did not fully satisfy either producers or performers, was, however, a compromise solution, and it was already known that the best agreement between two parties was one that was obtained leaving neither fully satisfied.

115. Finally, the Diplomatic Conference was the result of a mandate provided by the General Assembly of the Member States, which called for the Conference to be held in Beijing, using the 19 Articles approved at the 2000 Conference as a basis, and the text of Article 12 approved by the SCCR, and in the General Assembly of the Member States in September 2011, without amendments being made to the agreed text. The lack of protection had worsened owing to the emergence of new digital technologies, thereby allowing enormous numbers of audiovisual works including audiovisual performances to be unlawfully produced and communicated. Such an unfair situation should be rectified as soon as possible since damage had been caused, together with a loss of earnings for intellectual property rights holders. The Representative hoped that the sensitivity shown by the Member States, both at the SCCR session in June 2011 and the General Assembly of the Member States in September 2011, would be maintained, the mandate fulfilled, and the work completed with the adoption of the long-awaited Treaty on Audiovisual Performances.

116. Mr. SMITH (International Federation of Musicians) noted that the International Federation of Musicians (FIM) represented 65 musicians unions, guilds and associations from around the world, whose collective membership was hundreds of thousands of music performers. He pointed out that musicians had benefited from rights that were afforded to them by their own convention, and by the WPPT, but that it should be remembered that music was an integral and important part of audiovisual performances. The community of musicians would most definitely benefit further from the adoption of that important treaty. The struggle for effective performers' rights had been taking place since the 1950s, and the unions had played a crucial role in the forefront of that long campaign. That was why it was such an honor and pleasure for FIM to be present at the current Conference. It had taken almost 40 years of patient deliberation and inventive interaction, initiated by the ILO, for musicians to get to their own Convention in 1961. Throughout that time, the great and the good had developed the concept of performers enabling, or related rights, but made no distinction between audio and audiovisual fixations. The Representative noted that the introduction of Article 19 into the Rome Convention had been a last-minute development made in order to secure the Treaty. With that Article, economic rights would be voided once the consent of the performer was given for the incorporation of his or her

performance into a visual or audiovisual fixation, and it had had far-reaching consequences for performers. The Rome Convention was a step forward for performers as it addressed the fact that recorded performance could be reused. That work was built on by TRIPS and by the WPPT, but those more recent developments addressed performers' rights in audio and live performances only. The current Diplomatic Conference provided an opportunity to remedy that situation and extend to all performers a full suite of rights, both economic and non-economic for all of their recorded performances. It would thus bring into effect the long-term aim of performers' organizations. Closing the gap between copyright and related rights would be a step closer, and it would emphasize the value of the performance and the interpretation of a work. The Representative thanked the many musicians FIM represented, the delegates, and the Secretariat for its hard work over the years.

117. Mr. HAIR (American Federation of Musicians) spoke on behalf of the 90,000 members of the American Federation of Musicians (AFM) of the United States and Canada. He stated that it was a pleasure to be there to witness the adoption of the long-awaited Treaty for the Protection of Audiovisual Performers; those whose talent and creativity brought so much joy to the world. He noted that AFM had existed for over 116 years, to ensure that professional musicians could live and work in dignity, have a meaningful voice in decisions that affect them, have the opportunity to develop their skills and their talents, realize their collective voice and power, in a democratic and progressive union, and resist the forces of exploitation. Their members worked in concert to achieve those objectives through collective bargaining, organizing to extend the benefits of unionism, engaging in political action on matters important to musicians, and uniting in solidarity with others who shared their concern for social and economic justice. As musicians' artistic endeavors had become more globalized, they had become increasingly aware of the importance of international collaboration in advancing those goals. Thus, AFM was pleased to be part of the continued dance as an Observer participant in the historic conference to promote fairness for audiovisual performers. Among the representatives of AFM's delegation was Allen Willart, the Vice-President from Canada, and the presidents of the three largest recording locations in the United States of America in New York City, Nashville and Los Angeles. He pointed out that, together, they represented musicians who performed and recorded the most popular and most widely distributed audiovisual content in the world. It had been a struggle to reach the current stage of negotiations, yet the work that had already been accomplished was truly a testament to the remarkable power of mutual understanding and cooperation. AFM was confident that the efforts of the Member States in the following days would produce a framework in which performing artists of all nationalities might be treated fairly and equitably, and that all stakeholders would find inspiration in that model. AFM acknowledged and appreciated the consensus promoted and achieved through the efforts of India, Mexico and the United States of America and embodied in Article 12 of the Basic Proposal, a text that had paved the way for the Diplomatic Conference to be reconvened. The compromise regarding the transfer of rights from performer to producer reflected the diversity of legal systems and collective bargaining traditions of the Member States and the commitment of WIPO to the advancement of the copyright related rights of performers. He noted the proposal submitted for the Preamble, recognizing the importance of that development. The proposed Agreed Statement concerning technological protection measures affirmed the commitment of Member States to the Agreement on Trade-Related Aspects of Intellectual Property and clarified the relationship between the WPPT and the WIPO Audiovisual Performances Treaty. AFM wished the delegates success in their deliberations regarding those significant issues and encouraged them to address and further clarify the definition of "performer", to be as inclusive as possible, in order to give the fullest effect to the mandates of the Treaty. AFM enthusiastically endorsed and supported the adoption

of the substantive articles of the Audiovisual Performances Treaty as reflected in the Basic Proposals, and wished the Member States good luck.

118. Mr. MARTÍN VILLAREJO (Latin Artis) stated that he spoke on behalf of all performers in Latin America, Spain and Portugal. He trusted that, as a result of the President's skill in leading the discussions, the Diplomatic Conference would conclude with the successful adoption of the international Audiovisual Performances Treaty. He thanked the Chinese Government for its welcome, and for the magnificent organization of such a momentous event. He also thanked WIPO for the efforts made to ensure the Conference was held, and for maintaining the momentum to protect audiovisual performances in the past few years. The major consequence of those efforts was that the long-awaited Treaty was soon to be adopted. Latin Artis also thanked all the Member States, which, by showing great flexibility and commitment to performers' rights, had made possible the adoption of an instrument of vital importance to the lives of millions of performers throughout the world. The representative referred in particular to, and thanked, the Delegations of Mexico, India, the United States of America, GRULAC and the European Union for the work done in seeking a satisfactory consensus. He also highlighted his personal gratitude for the momentum generated in the previous two years by Mr. Manuel Guerra Zamorro, both as Director of the National Copyright Institute (INDAUTOR) and as Chair of the SCCR at its previous decisive sessions, as well as in Main Committee I of the Diplomatic Conference. The agreement reached at the Twenty-Second Session of the SCCR in June 2011 was a historic one, not only because an appropriate solution had been found to the sole pending subject following the 2000 Diplomatic Conference, but also because that solution had been agreed to through consensus between the Member States and the representatives of the whole of the private sector, who for the first time, had been able to agree on a text that satisfied all the interests at stake and which, moreover, was compatible with the different legislative systems. Mr. Abel Martin Villarejo referred in particular to Article 12 on the transfer and exercise of rights. He emphasized the flexible nature of the final, agreed wording, which would allow the Member States to implement the Treaty in accordance with their legislative and contractual traditions. In other words, nothing in the Article presupposed a handicap on the rights held by performers – at least in those countries in which they enjoyed minimum protection – nor on the interests of producers who would be able to continue peacefully enjoying the product of their investments. Not all issues could be resolved by means of a treaty, but it was sufficient to establish clear foundations that would enable progress to be made on the protection of audiovisual performances. It should not be forgotten that the true value of the Treaty lay in its flexibility and in the “minimum standards” it provided. Through the Treaty the Member States had confirmed their willingness to provide adequate protection for performers' rights. A separate matter was how they would implement such protection; that is, how they would convey the provisions of the Treaty in their respective national laws. There were two different phases in question and the agreement being reached would allow sufficient freedom for States to make progress with those laws. Latin Artis encouraged Member States to avoid any discussion of issues that could be decided individually when ratifying and implementing the Treaty at the national level. It should also not be forgotten that the progress being made was extremely important, and the achievement of an international treaty on audiovisual performances would be broadly welcomed by all performers, especially by those who did not have sufficient means to live but who, despite that, got up every day with the intention of sharing their work with other people. The majority of performers had difficulties making ends meet and it was clear that a treaty was required, allowing them to share in the exploitation of their performances. Great stars, who perhaps did not need the Treaty to survive, would also welcome it with open arms because it would be a demonstration of the commitment

shown by the Member States to the creative value of performers, at a time when intellectual property was especially being questioned. Latin Artis therefore encouraged the delegates to continue with their work. Now more than ever, it was essential not to place obstacles in the short distance still to be covered.

119. Mr. BURKE (International Federation of Actors) (FIA) noted that while he was the President of Actors' Equity Australia, that day he was speaking on behalf of almost 100 unions, guilds and professional associations in 75 countries around the world, which made up the International Federation of Actors. He represented people who were seen in television productions of all kinds, from big names to hundreds of thousands of lesser-known artists. He observed that they had one thing in common: the great gift and very special talent to bring stories alive, which billions of people around the world were able to enjoy. He stated that they did that as part of the audiovisual industry, helping to employ millions of people and to share the immense variety of cultures. He suggested that it was fair to say that without performers there would be little or no audiovisual content, except perhaps for a few wildebeest on the National Geographic channel. He pointed out that it was incredible that in the 21st century audiovisual performers were still denied intellectual property rights at the international level, and had little to bargain with in many countries around the world. In that era of media convergence, it was only right to put an end to that and to provide protection to all performers. The time had come to grant them proper recognition, a better future, and to make history by adopting the Treaty. He also pointed out that, as his truly inspiring performer colleagues from around the world had so eloquently reminded them the previous day, not just from the stage but in the excellent video presentation, the Treaty was for all audiovisual performers, regardless of nationality, language, medium or celebrity. It would protect artists whose work inspired them, even as they struggled to make a living for themselves and their families, and it would do so while providing a framework for the development of the audiovisual industry around the world. He expressed his appreciation for the swift progress made earlier by Main Committee I in the approval of the Treaty's 20 draft Articles. The 12-year impasse was behind them thanks to a really remarkable collective effort by producers and performers and many committed governments. He stated that it seemed that they would finally bring to an end perhaps the longest coffee break in WIPO history. He stressed that they had some real momentum going and urged Member States to add the finishing touches to the Treaty in a way that was most consistent with existing WIPO treaties in that field. He pointed out that while seeking to clarify concerns, the last Agreed Statements and preambular clause should honor the delicate balance that had been so carefully achieved with the 20 recently approved substantive articles. They were so unbelievably close to a truly historic achievement that would allow all performers to enjoy meaningful benefits from a combination of economic and moral rights. The time had come and he looked forward to the successful conclusion of the Diplomatic Conference and the momentous occasion of witnessing the birth of the Beijing Treaty.

120. Mr. BLANC (Association of European Performers' Organizations) informed the Conference that he represented 31 European organizations responsible for the collective management of performers' rights in Europe, both in the audio sector and the audiovisual sector, covering between 400,000 to 500,000 members. He expressed his great satisfaction, noting that Member States had the firm intention to adopt the Treaty for the Protection of Audiovisual Performances, and in so doing end a shocking anachronism in the area of protecting performers' rights at the international level. He stated that performers had been punished by certain provisions of the Rome Convention. They had been left out in the first days of the 1996 Conference, and abandoned and frustrated at the end of the 2000 Conference. He

welcomed the fact that a solution was being found for the protection of performers. He asserted that it was not just a treaty that related to compensation or remuneration, nor was it only about preventing unauthorized copies, or about the transfer between the performer and the producer. The Treaty was about the most important thing: respect for performers and for their work, by requiring their authorization for their performances to be used. He stressed that it was about respect for performers' rights, the conditions attached to the transfer of their rights, and remuneration for such transfers. He noted that the first step had to be the adoption of the Treaty. It had been interesting listening to Member States talk about the national legislation that would be essential if the Treaty were to live in law after they adopted it, something Zimbabwe had spoken about in a very lucid manner. He referred to the number of countries that had talked about the use of law, the situation of law at the national level, and what had to be done to protect performers. Yet the WPPT was still not applied in the majority of Member States, which was something to bear in mind. He hoped that the future Treaty would be supported and applied by all Member States, with the support of WIPO. He pointed out that it was a beginning and that his organization would be ready to join the efforts.

121. Ms. GONZALEZ (Coalition for Legal Access to Culture) stated that it was an honor for the Coalition for Legal Access to Culture (CALC) to be part of the Diplomatic Conference in its capacity as a Mexican non-governmental organization. She congratulated WIPO, the President, and the host government for holding, and so magnificently organizing, the Conference in the city of Beijing. CALC acknowledged the good work done by Mexico, and congratulated the President of Main Committee I, which was headed by Mexico. The subjects of copyright and related rights, which for a long time had not been at the forefront of discussions, had regained their importance, making WIPO the organization to bring the international legal framework in line with current requirements. Ms. Gonzalez explained that CALC represented 37 organizations in Mexico and was now considered to be an example of organizations, at the international level, covering all sectors involved in the cultural sphere, including performers in the audiovisual sector. Ms. Gonzalez observed that Mexico was one of the largest producers of audiovisual content exported throughout the world, and CALC wholeheartedly supported the great efforts made to produce a new treaty. She also pointed out that intellectual property protection continued to be a subject on the agenda of all Member countries with a common objective, and provided continuity with the WPPT. The negotiation of the current Treaty had been interrupted for a period of more than 10 years as a result of the discussions concerning, inter alia, Article 12, but thanks to the joint initiative of Mexico, the United States of America and India, a consensus had been reached within the SCCR. Ms. Gonzalez reiterated CALC's desire to represent the interests of cultural protection in Mexico through the conclusion of such an important treaty.

122. Mr. GINISTY (FIAPF) informed the Conference that he represented national audiovisual producers' organizations from around the world. He stated that the business sectors, on whose behalf he spoke, were dedicated to creatively developing, financing, producing and disseminating new original content, to respond to the growing global demand for filmed entertainment made to professional standards. The membership of FIAPF was truly global, encompassing 24 countries with established and developing audiovisual production capability from all continents. He was honored to note that representatives from his member organizations in Argentina, Australia, Canada, China, India, Nigeria and the United States of America were taking part in the Conference under the FIAPF Delegation. He pointed out that within FIAPF there was a great diversity of business models. They all had in common a commitment to observe fair and effective practices in hiring and remunerating talent, including audiovisual

performers, and working on new productions. He saluted Member States for the resolve they had demonstrated in convening the Diplomatic Conference with a view to updating the protection of audiovisual performers to the standard established in the WIPO Internet Treaties of 1996, which catered in particular to the developments in the online dissemination of creative works. He also saluted FIA with whom he had worked over the past few years to help flexibly resolve the important outstanding issue of the consolidation or transfer of the economic rights in the Draft Treaty. He believed it was time for the worldwide community of screen actors, which FIAPF represented, to receive effective legal protection, apposite to the digital age. He applauded the commitment of Member States, as enshrined in the mandate of the General Assemblies, not to reopen negotiations on the 19 Articles of the Draft Treaty that had been the object of a provisional agreement in the Diplomatic Conference of 2000, and to include the new Article 12 on the consolidation or transfer of rights, agreed to the year before, in the current provisional agreement. Several outstanding issues still needed to be resolved, namely a new Preamble highlighting the importance of the Development Agenda and Agreed Statements relating to Articles 1, 2, and 15 of the proposed Treaty. He commended the spirit of cooperation between Member States that seemed to have prevailed in the manner in which the various proposals were tabled prior to the start of that Diplomatic Conference. He urged Member States to work together in a constructive spirit during the following days, and to adopt language that would maintain absolute consistency with the international copyright framework. He indicated that the audiovisual sector was both intensely dynamic and endemically fragile. The creative entrepreneurs he represented participated significantly in wealth and job creation wherever they worked in the world. They were willing risk-takers in the high-risk endeavor of transforming creative visions into an immersive and sometimes unforgettable consumer experience. Their success or failure determined how narrow or wide employment opportunities for audiovisual performers, and all other creative contributors, would be in the future. He stated that global legal security in the shape of copyright and related rights' legislation based on sound international standards, adaptable to the wide variety of national legal traditions, constituted the most powerful incentive for that fragile creative business to maintain its momentum through the uncertainties of the digital age. He pointed out that finalizing the Treaty in a manner consistent with the existing global legal framework, and giving audiovisual performers due legal protection, would help to strengthen the entire entrepreneurial edifice of the audiovisual industries, thereby supporting their growing contribution to economic development the world over.

123. Mr. UEHARA (Copyright Research and Information Center) observed that in 1996, WIPO had established the WCT and WPPT, giving rights holders arms against piracy over the Internet, but had left out the protection of audiovisual performances and broadcasting organizations. He stated that in the previous 15 years, digitization and the Internet had advanced enormously and had caused huge problems for audiovisual performers and broadcasting organizations. The Copyright Research and Information Center (CRIC) believed it was their duty to establish international legal protection for performers and broadcasters. He stated that, regarding audiovisual performances, 19 substantive Articles had been agreed to at the Diplomatic Conference in 2000, but an agreement could not be reached with regard to Article 12. He noted that at the Twenty-Second Session of the SCCR in 2011, the goal had been to reach agreement on the Article 12 provision and reconvene the Diplomatic Conference in Beijing. He expressed his strong wish for success in the establishment of the WIPO Audiovisual Performances Treaty through the efforts of all Member States in collaboration with IGOs and NGOs.

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124. The PRESIDENT opened the session and reported briefly that the informal meetings of Main Committee I had positive outcomes. The regional groups as well as many delegations had participated and made their contribution to building consensus. The Agreed Statement on Article 1 had the objective of clarifying the relationship between the WPPT and the WIPO Treaty on Audiovisual Performances. He presented document AVP/DC/9, containing a proposal from Brazil, the European Union and its Member States, Turkey, and the United States of America, for Member States to consider. As the issue had already been discussed, and no other delegations wished to comment, the solution was approved. He asked the coordinator of the Asian Group whether he had any update on the negotiations on Article 2.

125. Mr. KHOUBKAR (Iran (Islamic Republic of)) said he had received different comments on Article 2 and ultimately the Group supported the proposal.

126. The PRESIDENT accordingly submitted for the consideration of Main Committee I the proposed Agreed Statement on Article 2 on definitions and asked the Secretariat to read the text of the proposal.

127. Ms. WOODS (Secretariat) read the consensus proposed language for the Agreed Statement on Article 2: "It is understood that the definition of a performer includes those who perform a literary or artistic work that is created or first fixed in the course of the performance."

128. The PRESIDENT, noting that no comments were raised, declared the discussed solution approved. The session was adjourned.

Agenda item 9: Consideration of the first report of the Credentials Committee

129. The PRESIDENT reopened the session and observed that the Conference had been progressing smoothly. According to the Agenda, Item 9 was to be opened during that session. It concerned the First Report of the Credentials Committee, and for that purpose he gave the floor to its Chair.

130. Mr. KASHITIKU (President of the Credentials Committee) introduced the First Report of the Credentials Committee, contained in document AVP/DC/12, and explained that the Committee members were to consider and verify the credentials submitted by Member States, special delegations, observers, international governmental organizations and non-governmental organizations. He noted that at the first meeting, the Committee had received 42 credentials with full powers to sign the Treaty at the end of the Conference, and 81 credentials without powers to sign. It had also received one credentials document from a special delegation for the appointment of an IGO and 22 from NGOs. He requested that the delegations review the report

carefully, and stated that if they had any comments or observations, they were welcomed to submit them to the Secretariat or to any member of the Credentials Committee.

131. The PRESIDENT opened the floor for comments on document AVP/DC/12.

132. Mr. GVALADZE (Georgia) put forward a proposal regarding the credentials document, proposing to divide the country lists into three categories. The first category would be full credentials, with the possibility of signing the Final Act; the second would be a credentials letter authorizing only the signature of the Final Act; and the third would just denote participation in the Conference.

133. Mr. SIMONOV (Russian Federation) proposed that the structure of the document be amended since it gave the impression that certain delegations did not have full powers to participate in the Diplomatic Conference, whereas the Russian Federation had full powers to participate and sign the Final Act. He requested a more clearly structured document, which would set out the list of delegations that had been granted the credentials to participate in the Conference, those that could participate in the Diplomatic Conference and sign the Final Act, and finally those that had full powers to participate in the Diplomatic Conference, to sign the Final Act, and sign the text of the future Treaty. Mr. Simonov requested that the Credentials Committee accept the Russian Federation's recommendation and make the necessary amendments to the report that had just been submitted to the Plenary.

134. Mr. KWAKWA (Secretariat) stated that the Credentials Committee report had been drafted in the usual style of all WIPO's previous diplomatic conferences, and followed the rules of procedure. In the first category, under Paragraph 7(a)(i), all the member delegations that had credentials as well as full powers to sign the final Treaty had been listed. All those countries – 42 of them – had provided full powers to show their intent to sign the Treaty and later on to ratify and be bound by the Treaty. In the second category, there were those countries that had presented credentials without full powers, which meant they did not intend to sign the Treaty at the end of the Diplomatic Conference, but they would be invited to sign the Treaty for up to one year after the Diplomatic Conference had been concluded, as long as they brought their full powers indicating they were competent to sign the Treaty. Those two categories had been established in order to distinguish those signing the final Treaty from those not signing the final Treaty. As to the proposal made by the distinguished Delegation of Georgia, Mr. Kwakwa's understanding was that the first category would be those with full powers, the second category would be those with credentials but without full powers, and the third category would be those participating in the Conference, but without reference to credentials or full powers. He drew the Delegation's attention to the fact that categories two and three would actually end up being the same. Having credentials simply meant participation in the Conference, which was the third category. It would not make sense for the Secretariat to make a distinction between categories two and three. The Credentials Committee could review the category in which the Delegations of the Russian Federation and Georgia had been placed, to determine whether they needed to be put in the first category with full powers. Any Delegation that believed it had been placed in the wrong category was invited to draw this to the attention of the Secretariat and the Committee.

135. Mr. SIMONOV (Russian Federation) said that the problem could be with the way the text read in Russian, which could be interpreted in such a way that the delegations that were mentioned in the second subparagraph under 7(a) did not have full powers and could neither

sign the Final Act nor participate in the Diplomatic Conference. The concerns had been submitted to the Credentials Committee for resolution with a view to reflect exactly what was meant by full powers and letter of appointment or letter of credentials.

136. Mr. ZOUITER (Syrian Arab Republic) stated that his Delegation had submitted its letter of appointment and credentials but the country had been included in the list of countries that did not have full powers. The Committee had not taken due account of this issue.

137. Mr. KWAKWA (Secretariat) stated that the WIPO Secretariat would get together with the Drafting Committee and the Russian translators to take care of the problems that existed in the Russian version of the document. He also confirmed that the WIPO Secretariat in Geneva had received the Syrian Arab Republic's full powers. He informed the Committee that the mistake would be solved before the next report of the Credentials Committee, and the Syrian Arab Republic would be included in the full powers category instead of the credentials category.

138. Mr. AL FALEH AL ABADI (Jordan) asked the President if the letters of appointment handed in at the beginning of the meeting would be reflected in the forthcoming meeting. He also asked what the consequences for the Committee would be.

139. The PRESIDENT gave the floor to the WIPO Secretariat.

140. Mr. KWAKWA (Secretariat) indicated to the Delegate from Jordan that Jordan was already reflected in the report after the credentials had been received the previous day.

141. Mr. RATTRAY (Jamaica) indicated that his Delegation was in the same situation, as they had presented their credential and a letter of full powers to the WIPO Secretariat, and they had been placed in the second category. He requested that this mistake be corrected.

142. The PRESIDENT indicated that the WIPO Secretariat had taken note of the issue and that the editorial work would be done.

143. *The Diplomatic Conference unanimously adopted the first report of the Credentials Committee.*

144. The PRESIDENT congratulated the delegates on the excellent efforts they had been making and for their contribution of ideas and new formulations for the documents. He also invited them to continue working together for the common good and for the good of artists and performers throughout the world. He reported that great steps forward had been made in the issues dealt with by Main Committee I: Article 1 related to TRIPS, Article 15 dealing with the technological measures, and also the Development Agenda which was to be integrated into the Preamble. The remaining points that the Committee needed to resolve from the original seven issues had nevertheless benefited from the goodwill and contributions of all. He also informed the Committee that the delegations still needed time for discussion and therefore they would be meeting again the next day at noon, in an informal meeting, to continue their work and give a chance to regional groups and delegations to continue adopting agreements and forming a consensus.

SUMMARY MINUTES OF THE PLENARY

Fifth Meeting
Sunday, June 24, 2012
Afternoon

145. The PRESIDENT invited the President of the Credentials Committee to present the Second Report of that Committee.

146. Mr. KASHITIKU (President of the Credentials Committee) stated that the Credentials Committee had met for the second time on June 23, 2012. In its deliberation, the Committee had considered submissions received after the meeting on June 21, 2012. The report was contained in document AVP/DC/15. He drew the attention of the delegates to Paragraph 5(a)(i) and informed the meeting that the Credentials Committee had received 19 submissions with credentials and full powers. These were credentials for participating in the Conference and for signing the Final Act of the Conference and full powers to sign the Treaty. The Committee had also received 11 submissions with credentials without full powers to sign the Treaty, but for participation in the Conference and signing the Final Act. In addition, "The Committee took note of the fact that the delegations of some Member States had indicated that, although they had presented credentials, they were not in a position, by virtue of their internal constitutional processes to sign the Final Act." A list of those countries had been created. For the purpose of clarity, he noted that the countries that were listed in Paragraph 5(a)(i) and (a)(ii) were those that had handed in their submissions after the first meeting. However, in order to avoid any confusion, Paragraphs 8(a) and (b) presented a consolidated list of all countries that had made submissions to the Conference. He recommended that the Plenary accept the credentials and full powers of the delegations mentioned in Paragraph 5(a)(i), and the credentials of the delegations mentioned in Paragraph 5(a)(ii), and the letters of appointment mentioned in Paragraph 5(b). He expressed his appreciation to the Members of the Credentials Committee and the Secretariat for their professional guidance and assistance during the Committee's deliberations.

147. Mr. EZEKUDE (Nigeria) wondered why Paragraph 5 on page 2 of the credentials report contained the list of countries with powers to sign the Final Act and the full powers to sign the Treaty. Countries in that paragraph actually differed from the countries that appeared in Paragraph 8. There were more countries in the latter than in the former.

148. Mr. KWAKWA (Secretariat) said that Paragraph 5(a), as stated by the President of the Credentials Committee, listed all the countries whose instruments had been received after the first meeting of the Credentials Committee. The consolidated list appeared in Paragraph 8, which noted all the credentials and full powers received in total. All the countries listed in Paragraph 5 also appeared again in Paragraph 8. However, Paragraph 8 had a combination of those that had submitted their credentials and full powers before the second meeting of the Credentials Committee, as well as those that had submitted their credentials and full powers after the second meeting of the Credentials Committee. If participants wanted to know which countries had submitted their credentials and full powers, they should simply refer to Paragraph 8(a) and (b) as explained by the President of the Credentials Committee.

SUMMARY MINUTES OF THE PLENARY

149. Mr. HUGHES (United States of America) stated that on page 3, Paragraph 8(b), the end of the second and the beginning of the third lines referred to “the following States” but should be amended to say, “The following participants of the Diplomatic Conference,” because that list included the European Union.

150. Ms. GWENANG (Cameroon) noted that Cameroon was among those countries that were not listed as having full powers despite the fact they had submitted them before the deadline.

151. Mr. KWAKWA (Secretariat) said he had confirmed to Cameroon that its credentials had been received well ahead of time, and that the full powers had also been received. The final report of the Committee would include that correction.

152. Mr. DERIVOIS (Haiti) found his country to be in the same situation. He had provided full powers and therefore wished to be included in Paragraph 8(a) to be able to sign the Treaty.

153. Mr. BELARBI (Morocco) proposed that Paragraph 8 read as Paragraph 5, namely that “the Committee has found to be in proper form the letters for credentials and full powers.”

154. Mr. AGOSSOU (Benin) noted he had submitted full powers but would not be able to sign the Treaty. He left that up to the Representative of Benin in Geneva.

155. Mr. HAROUNA (Niger) found his country in the same situation as Benin, which meant that Niger should also be in Paragraph 8(b).

156. Mr. KWAKWA (Secretariat) apologized if the document had not been clear enough. With respect to all the delegations that had given credentials or full powers after the second meeting of the Credentials Committee, he noted that they would not be reflected in that report. For example, the Delegation of Haiti had provided its full powers only a couple of hours before the Committee had met, so the Secretariat would only be able to reflect that in the third and final report of the Credentials Committee. As to those delegations in a similar situation to that of Benin, regarding the submission of full powers but the inability to sign the Treaty, he asked that they communicate that information to the Secretariat before the signing ceremony. Finally, he said that it would be difficult to move delegations from the full powers category to the credentials category because what the document indicated was the fact that countries had presented full powers and were competent to sign the Treaty. The document did not indicate whether the country would actually sign the Treaty.

157. Ms. KOUROUMA (Guinea) said that Guinea had submitted both credentials and full powers, but she did not find the name of her country in the list in Paragraph 5 of document AVP/DC/15.

158. Mr. KWAKWA (Secretariat) explained that Guinea was actually listed in Paragraph 8(a) as having full powers. The reason why it did not appear in Paragraph 5 was because full powers had been received after the second meeting of the Credentials Committee. That was why Guinea only appeared in Paragraph 8. The same would apply to most other delegations.

159. *The Diplomatic Conference unanimously adopted the second report of the Credentials Committee.*

160. The PRESIDENT announced that the second report of the Credentials Committee had been adopted. He submitted documents AVP/DC/16 relating to the Draft Final Act, and AVP/DC/18 relating to the Draft Beijing Treaty on Audiovisual Performances, for the consideration by the Conference.

161. Ms. WOODS (Secretariat) informed the Conference that several Drafting Committee members had brought to the attention of the Secretariat one additional technical matter regarding a footnote related to an Agreed Statement to Article 1. The Secretariat would adjust the placement of the footnote to reflect its substance.

162. *The Diplomatic Conference unanimously adopted the Draft Final Act (AVP/DC/16) and the Draft Beijing Treaty on Audiovisual Performances (AVP/DC/18).*

163. The PRESIDENT thanked the Secretariat for that last remark, and noted that both documents had been approved. He asked for a warm round of applause and announced that the baby had finally been born after over a dozen years. He noted that it was quite understandable that all participants were very excited.

164. Mr. MARTINEZ (Paraguay), speaking on behalf of GRULAC, noted the Group's pleasure at the success achieved during the Diplomatic Conference on the Protection of Audiovisual Performances. He congratulated all delegations on the successful conclusion of the Treaty and the high degree of commitment shown at such a historic moment, not only towards those present, but also to performers throughout the world, whose intellectual and cultural contribution was of vital importance for all, especially for sectors connected to the film-making, television and audiovisual industries. The Group thanked the President for his strong leadership, together with each of the presidents of the various committees, and was grateful for the enthusiasm, flexibility, knowledge and, above all, passion of the representatives of each of the States participating. It recognized the importance of the protection of audiovisual performances and said that the great success achieved represented a triumph, which reaffirmed the commitment of the Member States of WIPO to work on topical issues and search for new areas of opportunity in the face of the challenges raised by technological advances. During the days of work, and within each Committee, working documents had been prepared, which made a positive, effective and substantive contribution to the negotiations and the agreements reached. It should be noted that some GRULAC Member States had submitted proposals on the Preamble and Agreed Statements on Article 1. With regard to the Agreed Statement on Article 15, GRULAC had put forward a proposal that had served as a basis for negotiations and resulted in the text approved by the Conference. Finally, mention should be made of the valuable support provided by the WIPO staff, headed by the Director General, and the People's Republic of China, in its capacity as host country for the event, for all the facilities provided during the previous days. GRULAC also thanked the team of interpreters for their professionalism.

165. Mr. LIMA MENA (El Salvador) joined the words of congratulations and thanks from the Delegate of Paraguay on behalf of GRULAC. He thanked the Director General and his very efficient team, as well as the presidents of the various committees for having constructively contributed to achieve the goal to adopt a treaty on audiovisual performances. The task entrusted was to give performers protection and legal certainty through an international instrument adapted to the technological advances. Having an international instrument strengthened fundamental legal principles and provided a message of international unity.

Achieving that success at the Diplomatic Conference clearly showed the importance that Member States placed on the multilateral system, which was one of the means to achieve common goals for the benefit of society and for all countries. The Delegate encouraged all Members to continue with the rest of the work of the Organization to achieve future results.

166. Mr. MATUS (Chile) stated that the saying “better late than never” could be applied to the Treaty on Audiovisual Performances. He congratulated the organizers, the chairs of the committees, the coordinators of regional groups, the translators and interpreters, and gave special thanks to the President of the Conference on the magnificent organization of the meeting, as well as the elegant and subtle way in which he had managed his work. He highlighted five main benefits of Treaty. First, the Treaty would provide a legal basis for the international use of audiovisual performances in the traditional and digital media. Second, it would protect national artists from the non-authorized use of their performances in television, film or video. Third, the Treaty would be a guide for the drafting of national standards in countries where they did not exist or where an update was needed. Fourth, the Treaty helped to demystify the concept that intellectual property only benefited big industries and companies and not the individual and the consumer. The main beneficiaries of the Treaty would be precisely the artists and performers who needed extra support. And, finally, the Treaty interrupted a trend that seemed to have become general in the international system, and particularly in Geneva, where agreement and consensus were no longer possible, and where international legislative work was reaching its limits. The Treaty showed that the contrary was true, and Chile drew three lessons from that experience. First, if there was political will, it was possible to reach understanding. Second, the issues of the agreement must be self-contained, and equilibrium and balance must be achieved within the same subject. And third, there must be a group of clearly defined beneficiaries to be addressed in the instrument. In the case of the Audiovisual Treaty, it was the performers of the whole world. He thanked Chilean Actors for their presence at the Conference. Finally, he cited Confucius, who said, “You ask me why I buy rice and flowers, and the answer is that I buy rice to live and I buy flowers to have something to live for.” With the new Treaty, the Conference helped to buy flowers for the whole of humanity.

167. Mr. FELIZ TERRERO (Dominican Republic) expressed his full support of the declaration made by the Delegation of Paraguay on behalf of GRULAC. He noted that the national legislation of the Dominican Republic had more than 15 Articles for the protection of audiovisual performances, and he was pleased that an international treaty had been achieved to provide the same protection. There was no doubt that the right of authors and creators was the first link in the chain of economic, social, and cultural development of modern society. The existence of an international treaty would be a guarantee that all countries would include in their national legislations provisions, means and methods to provide such protection. He thanked WIPO and the Government of the People’s Republic of China for having made his presence possible at the Conference.

168. Mr. SCAFATI (Uruguay) thanked the President and also the chairpersons of the various committees for their excellent work. He also thanked the Secretariat of WIPO and the Government of the People's Republic of China for hosting the Conference. With regard to the Agreed Statement on Article 15 and its relation to Article 13, it was understood that the intention was not in any way to undermine the protection being brought about by technological advances. It was absolutely essential to strike a balance in intellectual property. He looked forward to the discussion of other very sensible themes in the SCCR.

169. Mr. EZEKUDE (Nigeria) congratulated the President and other officers on the landmark Treaty, the first in the century of that nature. It was commendable that, despite the disappointment of 2000 and several hiccups in the process leading up to Beijing, Member States had shown a common desire to give audiovisual performances a higher standard of protection, similar to that which is enjoyed by phonogram producers. In doing that, everyone had made compromises and had endured very difficult work schedules. Collectively, the Conference had shown once again that WIPO was still responsive and able to address the issues that affected Member States and stakeholders at different levels of development. Member States had also attested to the organic and flexible character of the system and the value of compromise, neutrality, respect, and the commitment of nations. As a country with a huge audiovisual industry, Nigeria had taken interest in the work leading up to the Conference and thanked every Delegation with whom it had shared proposals and formal consultations. He thanked the African Group for its leadership, and thanked the Director General, the Assistant Director General and other WIPO officials for their immense work and support.

170. Mr. HERMANSEN (Norway) congratulated everybody on the successful outcome of the Diplomatic Conference. He thanked the Director General and his staff and the Government of the People's Republic of China for their splendid organization of the Conference. He congratulated the audiovisual performers who now, through the Treaty, had obtained international protection for their rights in the digital age. He hoped that the spirit of compromise shown during the Conference would be brought to the future work of WIPO.

171. Mr. BLANCAFLOR (Philippines) said that the Filipino people had been waiting with bated breath for the Treaty. On behalf of 100 million Filipinos, he thanked the President of the Conference, the Government of the People's Republic of China, all WIPO officials, and all the participants of the Conference for making the Treaty a reality. Truly, the Beijing Treaty was a great gift to humanity.

172. Mr. KHOUBKAR (Iran (Islamic Republic of)) thanked the Government of the People's Republic of China for its great efforts and hospitality in such an important international event, and thanked the WIPO Secretariat for the good organization and successful outcome of the Diplomatic Conference. The Delegation of the Islamic Republic of Iran was grateful to all the delegations for their open and constructive approach, and paid tribute to the President for his insightful leadership during the past days, which helped everybody to progress productively in their work. The Delegation also thanked the Director General for his guidance and the important role that WIPO had played during the Conference. By concluding the Treaty, they had taken a firm step to establish the fundamental principles needed to provide audiovisual performers with the effective protection required to secure their economic and moral rights, in parallel with technology development. Accordingly, it was expected that performers' artistic lives would become more predictable and sustainable and gradually lead to the incorporation of relevant provisions into national laws. Regarding Article 15, in relation to Article 13, the Delegation was of the view that such obligations did not oblige Contracting Parties to adopt any judiciary, administrative and executive procedures that would establish preconditions for beneficiaries to enjoy limitations and exceptions provided under national legislation, in accordance with Article 13 of the Treaty. He hoped that the impetus created at the Conference would help WIPO to successfully address other issues under discussion in the Organization.

173. Mr. GUERRA ZAMARRO (Mexico) congratulated the Director General of WIPO, his staff, the President and other officers of the Conference, and also the coordinators of the regional

groups, on the excellent leadership and the excellent work that all had performed. The Mexican Delegation also congratulated each of the delegates who had taken part in the Diplomatic Conference. They had made valuable contributions to the various discussions and made possible the adoption of the Treaty. He was convinced that the success of the event was due to the efforts of every person present. The Treaty would not only benefit performers, creators, producers, publishers and interpreters, but also the entire system of authors' rights and related rights. The Mexican Delegation thanked the People's Republic of China for the warm hospitality it had extended to them all. It had been an unforgettable stay.

Sixth Meeting Tuesday, June 26, 2012 Morning
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174. The PRESIDENT opened the floor for Member States wishing to deliver statements.

175. Mr. YAN (China) stated that after seven memorable days of concerted and constructive efforts from the delegations and the Secretariat, the agenda of the Conference had been completed smoothly and had led to the adoption of the Beijing Treaty on Audiovisual Performances, for which he expressed his congratulations on behalf of the Chinese Delegation. The adoption of the Beijing Treaty was of far-reaching significance and demonstrated the necessity of new technological developments in the current Internet environment. Recognition of performers' rights had been further extended and more comprehensively guaranteed. This achievement would surely give creative incentive to performers, promote the creation and transmission of performing arts, enrich cultural life and cultural markets, and promote the development of cultural and creative industries. The Chinese government would sign the Treaty and work together with other countries to promote its entry into force. The Chinese position on the Treaty would be further explained upon ratification. On behalf of the Chinese government, the Delegation expressed its gratitude to WIPO and all the delegations for their confidence in China and for selecting Beijing to host the Diplomatic Conference. The Chinese government would continue to participate in the promotion of intellectual property development in the world and wished the delegations a safe journey back home.

176. Ms. KING (United States of America), speaking on behalf of Group B, extended the Group's congratulations to the President, Vice-Presidents, Chairs and Vice-Chairs of the various committees, all the delegations and groups, the Director General and the WIPO Secretariat for a successful outcome of the Diplomatic Conference. The Beijing Treaty would be the first copyright treaty to emerge from the World Intellectual Property Organization since the WCT and WPPT in 1996. The WPPT had failed to secure the rights of audiovisual performers, but Member States had been committed to continue working on providing protection, and ultimately convened a Diplomatic Conference in 2000. Through perseverance and dedication, the commitment to bring audiovisual performers into the broad system of protection had finally been fulfilled. The success that had been achieved not only benefitted audiovisual performers, but also reaffirmed the importance of working together in a multilateral environment. Multilateralism provided a stage on which States could act to overcome differences and provide real benefits to

humanity, including the advancement of development through effective use of intellectual property. Group B was confident that the constructive spirit exhibited by all delegations and groups would travel back to Geneva and allow the accomplishment of much more in the months and years ahead.

177. Mr. RIZK (Egypt), speaking on behalf of the African Group, said that the Group was delighted that the Diplomatic Conference had achieved its objectives and had successfully concluded its proceedings. It was a historic milestone in law-making within the international intellectual property system, which had allowed the great wall of more than 12 years of negotiations to be crossed, to bring justice and developments to audiovisual performers. Achieving balance and promoting development for the international intellectual property system had always been a key strategic priority for the African Group. The Group welcomed the successful conclusion of the Beijing Treaty on Audiovisual Performances as it brought justice to performers, especially those from developing countries, by ensuring the protection of their moral and economic rights in their audiovisual performances. The Treaty had also set the correct balance between the rights of performers and producers, and the rights of performers and users, and had brought parity to the rights of audiovisual performers and musical performers. It contributed to a balanced international copyright system that promoted creativity, and which in turn contributed to economic, cultural and social development, while at the same time ensuring access to creative works and a vibrant public domain. The African Group acknowledged the strong political will, positive engagement, and constructive interactions manifested by all partners. Inspired by the Beijing spirit of teamwork, consensus building, and a strong commitment to multilateralism, the Group strongly believed that the march to advance the development of an international copyright system could continue in the same spirit, in particular to conclude the other important negotiations at WIPO on copyright exceptions and limitations for people with disabilities, libraries, archives, and for education and research institutions. The African Group was leaving Beijing with many sweet memories, and was confident that the Beijing Treaty on Audiovisual Performances would remain as a prominent chapter in the history of the international intellectual property system in the years to come.

178. Ms. PIRANI (Australia) observed that her Delegation was proud to share in the achievement and the benefits that would flow to performers around the world from the Beijing Treaty, which was something that performers had long been waiting for. At a time when copyright was being confronted with great challenges such as piracy and the escalating pace of technological change, it was reassuring that the Member States of WIPO had demonstrated they could work together to achieve the agreement, which placed them in the best position to move forward in ensuring a robust international framework for copyright protection. The Delegation of Australia was hopeful that the positive environment that had prevailed during the Diplomatic Conference would carry forward to the upcoming meeting of the SCCR, to finally reach a consensus to address the difficult copyright issues that still had an impact upon visually impaired and print-disabled people around the world, who had long waited for the resolution of their copyright issues. In the very near future there would be a reason to celebrate that as another significant achievement.

179. Mr. JAHANGIRI (Iran (Islamic Republic of)), speaking on behalf of the Asia Pacific Group, stated that the adoption of the Treaty was the threshold for the emergence of norms and principles that had been expected for more than a decade. Millions of people in the four corners of the world would benefit from the principles and the norms that the Conference had meticulously worked on. The Asia Pacific Group had constructively engaged in the development

of the contents of the text, and delineation of the scope of obligations, by working on Agreed Statements, the Preamble Paragraph, as well as Article 12, which had already been discussed during the SCCR meeting in June 2011. Soon the Treaty would come into force, and the Group expected to see it grow stronger through the ratification and accession of the Member States, in order to effectively meet the objectives created in the Treaty. The standards of the universal values enshrined therein would protect performers, while reserving the rights of the public in general. The Treaty had also tried to ensure that the WIPO Development Agenda had been clearly taken into account. The Asia Pacific Group looked forward to extending the positive development of the Diplomatic Conference, in the hope that the camaraderie and mutual understanding forged in Beijing would live on, to lead to further success in other negotiations at WIPO.

180. Mr. RABEHI (Algeria), speaking on behalf of DAG, stated that the Treaty was the culmination of constant efforts carried out over 12 years to enshrine the protection of economic and moral rights of performers, while reaffirming the right of the public to have access to protected works of general interest. DAG adhered to the Agreed Statement clarifying the relationship between Articles 15 and 13 in the Treaty. The principle that expressed the importance of the Development Agenda to WIPO, and its central place in the activities of the Organization, was one of great satisfaction for DAG. The confirmation of that principle in the first international legal instrument of WIPO after the adoption of the Development Agenda showed the irreversible commitment of WIPO Member States to the development dimension in the legal activities of the Organization.

181. Mr. FICSOR (Hungary), speaking on behalf of the CEBS Group, stated that the Beijing Treaty had certainly not been built in a day, but great work took time to mature. The Group was extremely satisfied that they had collectively accomplished the task to conclude the Diplomatic Conference on Audiovisual Performances successfully, and that they had finally managed to remedy a long-standing imbalance in the international system, by granting audiovisual performers both economic and moral rights, similar to those already recognized for other performers. Actors, singers, musicians, dancers and other performers were an integral part of culture and identity and helped to build strong links between nations. Giving their rights the broadest international recognition had been a common duty. Therefore, the CEBS Group hoped that the maximum number of WIPO Members would sign the long-awaited Treaty, and looked forward to its timely entry into force. Arriving at its overall success had not been easy and had required utmost flexibility from all delegations, which were sincerely thanked for their tremendous efforts and constructive spirit. Although some of the Agreed Statements did not entirely reflect the Group's initial positions, it had decided to join the consensus in the spirit of compromise and in light of the huge importance of the Treaty. It was against that background that the Group expressed its hope that future negotiations within WIPO would be conducted in an increasingly transparent and inclusive manner. The conclusion of the Beijing Treaty had demonstrated that the international community was still capable of agreeing multilaterally on new global standards of protection for rights holders, and thus had reaffirmed WIPO's leading role in international law setting.

182. Ms. MARTIN-PRAT (European Union) stated that it had been a long and difficult journey to Beijing, which had proven worthwhile, as the Treaty represented a major breakthrough for the work of WIPO, demonstrating the key role that the Organization played as a multilateral forum for establishing international norms on intellectual property. It had closed a gap that had been left open for too long. Artistic endeavor was a resource common to all countries, no matter the

continent, the language or the level of development. The Treaty recognized the valuable contributions played by actors, singers, dancers, musicians, and all other performers all over the world, who enriched and improved society and promoted cultural diversity. The protection of their rights would ensure that performers were rewarded and given incentives to continue bringing stories to life. The European Union and its Member States would build on the sound foundations established at the Diplomatic Conference, and would always remember the spirit of compromise, genuine good will, and exceptional hospitality and friendship.

183. Mr. HORINOUCI (Japan) congratulated the President on the adoption of the Beijing Treaty and reminded the Conference that the previous contributions of Mr. Jukka Liedes and Mr. Sarma should not be forgotten, as they had established the essential basis of the Treaty. Japan also congratulated performers on the achievement of the Treaty through their efforts for many years. The Delegation hoped that the Treaty would enter into force as soon as possible, to form an essential and well-balanced framework for the protection of performers worldwide.

184. Mr. MASOKOANE (South Africa) expressed support for the statements made by the African Group and DAG. The vigor and commitment shown during the Conference would certainly be emulated in other outstanding issues related to copyright and related rights in WIPO, in particular those relating to broadcasting and exceptions and limitations. The protection of performers' rights was central to the development agenda of cultural and creative industries. The Treaty was an important landmark as it consolidated the basic principles of the right to work, but also enshrined well-deserved intellectual property rights and the dignity of performers worldwide, to enable them to enjoy intellectual property protection after an arduous decade of negotiations. That new milestone would surely strengthen the growth and sustainability of the creative industries in the Delegation's part of the world. The Delegation paid a special tribute to the WIPO Secretariat for a job well done and expressed sincere gratitude to the government of the People's Republic of China for having organized the Conference with sheer excellence. The Beijing Treaty on the Protection of Audiovisual Performances would remain a lasting reminder, etched firmly on the evolution of the history of intellectual property.

185. Mr. PARK (Republic of Korea) stated that the successful conclusion of a treaty on the occasion of the Beijing Diplomatic Conference was significant for many reasons. First, the Beijing Treaty would provide indispensable tools for audiovisual performers to make the most of the digital environment, to better protect their rights, but also to enhance the availability of creative works for global audiences. This could result in a win-win situation for all the stakeholders. Second, the Beijing Treaty would be the first international convention on copyright and related rights that had been adopted in Asia. It was expected that the geographical extension of the WIPO Treaty into various regions would contribute to raising both regional and global awareness of the international intellectual property system, aimed at promoting creativity for social and cultural development. Third, the adoption of a new instrument could not come at a more important time, as multilateral agreement was becoming more and more complicated and, as a result, more elusive. WIPO would continue to remain one of the most relevant international organizations through its delivery of tangible, meaningful contributions. The Republic of Korea attached great importance to the new Treaty designed to improve performers' rights in audiovisual productions, and had actively and constructively taken part in the negotiations over the past decade. Along those lines, it would continue to work closely with other Member States and WIPO to ensure effective and efficient operation of the international intellectual property system.

186. Ms. GRAZIOLI (Switzerland) wished, first of all, to join with the delegations that had already thanked the President for the determined and committed manner in which he had guided their work during the Diplomatic Conference, allowing them to achieve a long-awaited result. Congratulations and thanks were also due to the Vice-Presidents of the Conference, the Chairs and Vice-Chairs of various other commissions and committees, and all the delegations present, which had contributed to their collective success. The Delegation of Switzerland also took the opportunity to express its heartfelt gratitude to the government of the People's Republic of China, and the National Copyright Administration in particular, for the excellent organization of the Diplomatic Conference. The opportunity to gain insight into the cultural and historical wealth of China was also welcomed. The Delegation also offered its sincere thanks to the Director General of WIPO, and all the staff of the International Bureau, as well as the interpreters, for the exceptional work that they had once again done at the Conference, thereby contributing to its success. At the beginning of the Diplomatic Conference, and in order to address a gap that had existed for too long, the Delegation of Switzerland had emphasized the importance of international protection for performers regarding fixed or unfixed performances. That gap had been closed to the satisfaction of all, the proof of which was the sustained applause that had rung out in the room the previous Sunday. After the Diplomatic Conference in 2000 in Geneva, then during and throughout the consultations and meetings that followed – which had been required to gradually develop a common line on the various provisions of the Draft Treaty, and on the parameters of a global agreement – they had been able to put the finishing touches on the work in the previous days and harvest the fruits, in Beijing, of the protracted work of the Diplomatic Conference. Therefore, the result achieved showed that WIPO remained an international forum that was capable of successfully developing international norms and standards. The Delegation was convinced that the receptive spirit of dialogue accompanying the search for solutions at WIPO in recent times, and in Beijing that week, would continue to inspire them all in their ongoing and future work in the Organization. They should therefore be able to celebrate other, similarly important and longed for results, whether they concerned copyright or other sectors of intellectual property, in the near future.

187. Mr. SIMONOV (Russian Federation) stated that the Beijing Treaty would enable the international community to improve the protection of performers in the area of audiovisual performances. The Russian Federation, with its vast population and more than 40 nationalities, attached great importance to the Treaty, which would protect Russian performers and producers throughout the world. The Treaty provided the basis for the development of national laws on audiovisual performers' rights. The Beijing Treaty would create an impetus for improving the protection of audiovisual performances, and Russia would continue improving its own legislation. That development had shown that multilateral treaties were not facing a crisis. WIPO had shown once again that it could play a key role in the international architecture of intellectual property. All the delegations working together had been able to find a balanced solution to the most difficult problems. They had been able to take into account the interests of all stakeholders, and it was hoped that a similar approach could continue on the other issues still on WIPO's agenda.

188. Mr. MUIGAI (Kenya) stated that Kenya agreed with the sentiments expressed by the distinguished Delegation of Egypt on behalf of the African Group. The successful adoption of the Beijing Treaty on the Protection of Audiovisual Performances highlighted the importance of the norm-setting process at WIPO in the field of copyright and related rights. The protection of audiovisual performances was of great importance to Kenya, as they were an integral part of the creative industries that had in the recent past increased their contribution to economic, social

and cultural development in Kenya. The increasing use of the Internet and the proliferation of mobile telephony, especially in developing countries such as Kenya, had changed the landscape of the reproduction and dissemination of audiovisual works. As a consequence, there was an increasing need for an international treaty to ensure that rights were protected beyond geographical borders.

189. Mr. CHIAM (Singapore) stated that the city of Beijing had lent its name to the new Treaty at a unique point in history. As many speakers had already observed, multilateral rule-making was currently going through a difficult phase. Even when governments had the convergent political will to forge an agreement, each of them faced different domestic political pressures, which sometimes set complex parameters on the ability to act internationally. The conclusion of a legally binding international agreement was not a small matter on the global stage. It was hoped that each country would tap into that momentum to do what was necessary for the Treaty to enter into force. The Beijing Treaty also brought hope in other ways. First, it set down a positive direction for WIPO's normative agenda. There were other agreements and instruments under negotiation, and some would be more difficult than others; however, it was hoped that the spirit of cooperation and camaraderie of the days in Beijing would continue as delegations returned to Geneva. Second, the Treaty benefitted a special community of the global citizenry, the performers, whose representatives were also in the hall that day. At a time of economic stress, and great uncertainty for many people in the world, the very audiovisual performances protected by the Treaty were those which offered solace and encouragement to the public in their daily lives. Adequate value was not always attached to the artistic expressions that touched the hearts and inspired the minds of the people. While WIPO Member States should be proud of their achievement, the catalytic role played by the colleagues at WIPO under the leadership of the Director General should also be recognized.

190. Mr. DO AMARAL SOUZA NETO (Brazil) fully shared the satisfaction expressed by all delegations. The mandate assigned to the delegations by the General Assembly of WIPO had been fulfilled entirely, and as a result, a treaty aimed at protecting the rights of a particular category of professionals had been adopted. In that connection, the Delegation of Brazil wanted to acknowledge the presence of actors and performers from Brazil in the first days of the plenary sessions. The Treaty had incorporated new elements that made it more balanced than similar treaties negotiated previously at WIPO. The atmosphere prevailing over the previous few days had also been welcomed. All the delegations had worked with a true spirit of compromise and with a good deal of trust. That same trust would be needed in Geneva to make progress in other norm-setting activities in the area of copyright at WIPO.

191. Ms. AGUILAR DE BENÍTEZ (Guatemala) thanked the President and congratulated the Director General, as well as all the members of the Secretariat, on the work carried out to organize the Diplomatic Conference on the Protection of Audiovisual Performances. The Delegation observed that the Conference had been a successful one and thanked the government of the People's Republic of China for its hospitality. On behalf of the government of Guatemala, the Delegation expressed pleasure at the adoption of the Treaty on Audiovisual Performances, which would bear the name of the beautiful city hosting the Conference. The Delegation was aware of the beneficial role played by copyright and related rights with regard to the economic, social and cultural development of Guatemala. The Treaty would contribute to the strengthening of a legal framework guaranteeing and protecting the international intellectual property system. It was vital to boost the effective protection of audiovisual performances through the Treaty. The economic contribution made by the audiovisual industry should not be

forgotten. Audiovisual producers and performers would benefit from the rights provided in the Treaty, which would also encourage the creation of new works. The Delegation also congratulated the various committees that had worked to ensure that the Treaty became a reality.

192. Mr. JOSHI (NEPAL) strongly believed that the Treaty would form the legal base, at the international level, for the protection of audiovisual performances and had provided incentives to performers as well. Nepal was confident that the Treaty would balance the public interest and the rights of performers.

193. Mr. RAHMAN (Bangladesh) pointed out that different forms of audiovisual performances were an integral part of everyday life, either as entertainment or as a means of communication. With the advent of digital technology, all forms of audiovisual performances permeated into individual and social lives. The Treaty would encourage amateur artists to create more artistic performances as they would enjoy the benefit of a legal basis both at the national and international level. Therefore, ultimately, the common man – both as a performer and as an audience member – was the main beneficiary of the Agreement. The conclusion of the Agreement had been a triumph of multilateralism. It was especially commendable that the Preamble referred to development considerations mainstreamed in the organizational work of WIPO. A delicate balance had been established between the rights and obligations. Article 12 had provided the much sought after flexibility to control the transfer of rights under respective national laws. It was time to act with responsibility to guarantee the implementation of the rights of performers into national law and to ensure their proper enforcement. The 2000 Copyright Act of Bangladesh had already addressed a lot of the provisions of the new Agreement, and the Government of Bangladesh dealt seriously with copyright infringement. The Delegation of Bangladesh had learned a lot through the negotiating process of the Agreement and from its final outcome. That learning would be helpful in taking prudent and appropriate action in the future regarding the rights of audiovisual performers. It was honestly hoped that Member States would show the same flexibility, understanding and eagerness that they had shown in concluding the Beijing Treaty, to conclude future agreements regarding persons with disabilities and with regard to traditional cultural expressions, traditional knowledge and folklore.

194. Mr. ABBASI (Pakistan) stated that although it had taken 12 years of deliberation, the Treaty had finally been unanimously adopted. It was to be hoped that the rights of audiovisual performers would now be protected and properly taken care of in the digital environment.

195. Mr. DRAME (Burkina Faso) observed that enshrining the rights of audiovisual performers seemed to be simply a case of giving due respect to their important contributions. The victory of consensus demonstrated the level of maturity of WIPO's Member States. Burkina Faso recognized the importance of the rights of performers through a number of means, and WIPO, especially with its development programs, had supported those efforts. In Burkina Faso, the promotion of audiovisual rights had been in place for a number of years; for example, a festival for television talent had been run successfully for more than 40 years. The establishment of performers' rights in general and audiovisual performers' rights in particular, had been in place for more than 10 years in Burkina Faso, as well as effective implementation of collective management. With the assistance of WIPO, important progress had been achieved in both areas. The preambular reference to the recommendations of WIPO's Development Agenda constituted a positive recognition of the impact of copyright on development. The Treaty further

strengthened the protection of intellectual property and established a major milestone in achieving WIPO's objectives.

196. Mr. BANGOURA (Republic of Guinea) supported the statement made by the Delegation of Egypt on behalf of the African Group. The Beijing Treaty would most certainly allow thousands of performers from Member States such as the Republic of Guinea to make a living from their performances and to participate in the socioeconomic development of their respective countries.

197. Mr. MOSCOSO (Peru) celebrated that the performers of the world, whose contribution to national identities and the enrichment of universal culture was so deeply respected by Peru, had achieved an international instrument. The Treaty would ensure a fair recognition of the contributions of performers, which would enable them and their families to have the decent life they deserved and enable them to continue dedicating themselves to the creative life of an artist. Moreover, Member States who had recognized those rights in their national legislation would have an instrument to protect them abroad. In order to achieve that result, the delegations of all countries present had shown flexibility, expertise, and a willingness to achieve consensus. Peru had participated actively as an individual country, and within GRULAC, in the discussions on the Agreed Statements, the paragraph in the Preamble, and the issues relating to the transfer of rights. Peru was particularly proud to have been able to contribute, with the Mexican Delegation, directly to the final result in the complex issue of the relationship between technological measures and limitations and exceptions, through the drafting of a text striking a compromise between the various proposals on the table. Peru was especially proud of its participation as member of the Drafting Committee, where it had been able to work in detail on the different articles of the Treaty, paying very close attention to the Spanish version, in close cooperation with the Spanish Delegation and the WIPO Secretariat. Peru expressed its fervent desire that the positive outcome of the Diplomatic Conference would lead to further standard-setting developments in the area of copyright and related rights, so that a balanced agreement could be adopted in the future on the issue of visually impaired persons and with regard to broadcasting organizations.

198. Ms. LÓPEZ GILLI (Argentina) noted that it was a historical moment for the Member States of WIPO and for performers. A legal basis for the use of audiovisual performances had been established, which confirmed at the international level both the moral and the economic rights of performers, whose talent and expertise were so important to the audiovisual sector. The Beijing Treaty would not only provide protection for performers, but it would also become a reference for the drafting of appropriate standards, while reaffirming the importance of a solid basis for consensus on a multilateral level. The achievement of the Beijing Treaty encouraged work towards other areas of discussion in the framework of WIPO, and highlighted that when there was sufficient political will the goals were achievable.

199. Ms. KANJANAKUL (Thailand) stated that Thailand associated itself with the statement made by the Islamic Republic of Iran on behalf of the Asian Group. The Beijing Treaty on Audiovisual Performances was a critical step to strengthen the protection of performances in audiovisual creations.

200. Mr. RAMADHAR (Trinidad and Tobago) was pleased that compromise and balance had been found on several Agreed Statements, in particular the Agreed Statement on Article 15 on technological protection measures. Performers would no longer be denied recognition when they ventured overseas, as they would enjoy the protection of the law under the principle of

national treatment conferred by the Treaty. For Trinidad and Tobago, culture, music and dance were among its greatest exports. Performers from Trinidad continued to perform overseas at major events and festivals. Indigenous music festivals and jazz festivals also attracted major headline acts. There was a vast opportunity with the audiovisual recording of such talent, and multiple avenues for successful commercial exploitation in the world of the iPad and video on demand. The Beijing Treaty had completed the work started in 1961 with the adoption of the Rome Convention, when singers, musicians, dancers and actors first enjoyed limited international protection for their performances. The major objective of the reconvened Diplomatic Conference on the Protection of Audiovisual Performances was to fill the void in the international rights system for actors and other audiovisual performers. The Treaty was a great improvement of the legal position of actors and would have a positive impact on Trinidad and Tobago's film and entertainment industry. Echoing the words of the Director General of WIPO during the 2011 General Assembly's announcement of the decision to convene this Diplomatic Conference, the Delegation stated that it was a good day for actors, performers and international copyright communities. While some countries had domestic legislation that granted certain rights to performers in audiovisual works, there had been a legal vacuum at the international level. Performers had not had control over how and when their performances were used abroad, nor any legal right to payment. The Treaty would bring everyone a big step closer to resolving the issue.

201. Mr. CHINBAT (Mongolia) indicated that, by means of the Treaty, the excellent efforts of all delegations would immensely benefit audiovisual performers from all over the world.

202. Mr. MANGOTA (Zimbabwe) emphasized the need for each WIPO Member State to make every endeavor to sign, ratify and implement the Treaty. Zimbabwe would no doubt perform those three major acts sooner rather than later. It would do so in full realization of the fact that intellectual property, properly managed, was a huge contributor to the nation's GDP. Zimbabwe was a country with audiovisual performers who required protection, and it would of course protect those performers in the full hope that their performances would enhance the growth of the economy.

203. Mr. MARUTA (Namibia) agreed with the statement delivered by the Delegate from Egypt on behalf of the African Group. He also emphasized that the successful outcome of the Diplomatic Conference would greatly complement the current amendment of the Namibian Copyright Law, in the section pertaining to audiovisual performance rights.

204. Mr. TALAVERA COREA (Nicaragua) extended his Delegation's congratulations on the conclusion of the Beijing Treaty on Audiovisual Performances, which undoubtedly broadened the existing framework of protection. In the case of Nicaragua, that included the Political Constitution of the Republic of Nicaragua, Law No. 312 on Copyright and Related Rights, the Penal Code of the Republic of Nicaragua, and the international instruments in force on intellectual property with the World Trade Organization (WTO), WIPO, commercial partners, human rights entities and so on. The Delegation thanked the People's Republic of China and its people for their kind welcome, and WIPO for all the efforts made to organize the Diplomatic Conference. The Delegation also commended the extraordinary work done by the different committees in order to conclude the international Instrument successfully. Strength had been developed that, it was hoped, would resemble the Great Wall of China, to the admiration of the whole world, and which, for performers of audiovisual works, would provide protection for the fruit of their intellectual efforts. However, that required further reinforcement and the Delegation

therefore urged its commercial partners and the international community to strengthen, by means of international cooperation, Nicaragua's intellectual property institutions, such as the Intellectual Property Registry, the Directorate General of Customs, the Public Prosecutor's Office, and the national police force.

205. Mr. IMANOV (Azerbaijan) stated that the Beijing Treaty on Audiovisual Performances created great possibilities for the protection of performers' rights and his Delegation was extremely pleased with the commitment shown by all who had contributed to the success of the Conference.

206. Mr. MANTILLA (Ecuador) stated that it was important that Member States had been able to achieve a successful outcome to the Diplomatic Conference. It was a historic day for performers, who for many years had been struggling to achieve the kind of agreement that recognized their rights. He also emphasized that there was a need for the development of norms to ensure that intellectual property could be used as a tool for peoples' development; for instance, a treaty for visually impaired people.

207. Mr. MARMO (Tanzania) noted that there were several treaties and conventions in the area of copyright, yet none had been specific to the category of audiovisual performances. States wishing to protect the rights of audiovisual performances had their own methods of establishing protection mechanisms. The lack of international instruments to guide Member States had led to a lack of uniformity in protecting the rights of performers at the international level. The creation of an enabling environment for performers in Tanzania would boost other economic sectors and improve the national income.

208. Mr. BANDAMAN (Côte d'Ivoire) stated that his Delegation supported the statement made by Egypt on behalf of the African Group, and, like all the other delegations, welcomed the unanimous commitment to adopting the new Treaty in Beijing. The host country would once again be able to attach its distinguished name to a major step forward in the field of copyright. Gratitude should be expressed to the government of the People's Republic of China for the perfect organization of the Diplomatic Conference – crowning several years of discussion – as well as to the Director General of WIPO, and the whole WIPO Secretariat, for their many efforts and all the prudent initiatives taken to finalize such a vast undertaking. At a time when Côte d'Ivoire was reforming its copyright and related rights sector, the adoption of the new Treaty was a major opportunity. Indeed, the work had given everyone access to a normative framework that favored balanced development for cultural industries, particularly the audiovisual industry, where the contribution of performers was essential. The Delegation expressed the wish that the adoption of the new legal Instrument would open up new prospects in terms of the ongoing work at WIPO.

209. Mr. HUGHES (United States of America) reminded the Plenary that the 20th century had given rise to a truly new art form: a form of creative expression the world had never seen in which images flickered across the screen, creating the impression of motion, first in silence and later with sound. In most languages, this simply came to be called the film, reflecting the medium on which those images were first captured. Over the decades, the technology to deliver these new works to consumers had changed, first with television and then with the Internet, triggering new forms of audiovisual works. The technology for creating films and television shows had also changed. However, one thing had remained constant: by their very nature, audiovisual works were a tremendously collaborative art form involving the talent and creativity

of writers, cinematographers, directors, animators, special effects wizards, composers, musicians and, above all, actors. Yet those actors and their performances had been the last to be brought into the modern system of intellectual property protection. As everyone knew, the 1996 Diplomatic Conference, which had completed the WCT and the WPPT, had been unable to find the right formula to bring audiovisual performances into the latter Treaty's protection. That work had been left for subsequent discussions, leading to the 2000 Diplomatic Conference. Negotiators at that Diplomatic Conference had completed 19 of the Treaty's 20 substantive Articles, but again success had eluded them. December 2000 in Geneva had been dark and disappointing. Citing Amadou Hampâté Bâ from Mali, Mr. Hughes noted that a story was a message from yesterday, destined for tomorrow, transmitted across today. In all movies, the performer was the storyteller, the actor, dancer, musician, because it was the performer's image and voice and movement that was captured in the audiovisual work. For that labor, those creators deserved the protections crafted in the Beijing Treaty. The creation of that Treaty had been possible because of the hard work, good will, flexibility and warmth of all the delegations. After the attempts in 1996 and 2000, the Delegation of the United States of America was happy and proud to go home, knowing that government officials and diplomats had finally given the world's actors the performance they deserved from them.

210. Mr. RAGHAVENDER (India) observed that the protection of audiovisual performances had come a long way during the development of the international copyright system. Performers were either discriminated against several times or justice proved to be elusive to them due to various reasons. By means of a cut-off provision, the Rome Convention of 1961 had taken away all the rights provided to performers once that performance had been included in audiovisual fixations. The TRIPS Agreement in 1994 had also failed to give satisfactory protection to those performers. In 1996, the WPPT had been finalized, again excluding the protection of audiovisual performances. And the 2000 Diplomatic Conference to adopt a treaty had collapsed, due to lack of consensus on the clause to regulate the transfer of rights from performers to the producers of audiovisual fixations. When the Diplomatic Conference to adopt the Treaty for Protection of Audiovisual Performances had collapsed in the year 2000, no one had believed there would be a way forward. However, when, following the decision of the Member States in the Twenty-Second Session of the SCCR, the WIPO General Assembly decided in September 2011 to reconvene the Diplomatic Conference on the WIPO Treaty on the Protection of Audiovisual Performances, it had been clear that something had changed. The Delegate was extremely satisfied that the adoption of a meaningful international convention for the protection of audiovisual performances had been concluded. It certainly took care of their interests in the global digital multimedia environment, where the boundary between audio and audiovisual fixations was becoming more and more blurred. All delegations had confirmed the moral, legal and political obligation to protect the rights of performers. The Treaty certainly reinforced the confidence of all stakeholders in the WIPO system, including producers of audiovisual performances whose interests had also been addressed in the new international instrument. He noted that the Indian film industry had become a global enterprise. From the figures available for the year 2009, India had produced more than 2000 films. Of those, 1288 films were feature films in all the regional languages of India; and Indian performers were internationally famous. The Treaty would help to protect their rights all over the world.

211. Ms. WILLIAMS (Barbados) was pleased that the Member States of WIPO had been able to conclude negotiations and produce the Beijing Treaty for the Protection of Audiovisual Performances. In an age of rapid technological change in the production of audiovisual performances, and with all the attendant challenges to performers' rights, the Treaty would be

most welcomed by performers, giving to them the added protection they had long deserved. Many people had worked on that international Instrument over several years. Achieving consensus was never easy, but delegations had shown determination throughout the process in Beijing, and a sense of good will had always been evident, even when there were differences.

212. Mr. KAMARA (Sierra Leone) expressed his Delegation's alignment with the sentiments expressed by Egypt on behalf of the African Group. On behalf of the government of Sierra Leone, he thanked the President of the Diplomatic Conference, the Director General of WIPO and its entire staff for their continued commitment and assiduous efforts to make the adoption of the Treaty a reality. He also thanked the People's Republic of China for the hospitality extended to all participants throughout the meeting. He assured all the delegates that Sierra Leone was going to be one of the first countries to adopt the provisions of such an important, history-making treaty.

213. Mr. ZOUITER (Syrian Arab Republic) thanked the Director General of WIPO and all his staff for their daily efforts and for the great care they had shown to the delegates. He also thanked God for allowing him the chance to visit China and see how great and advanced the country was. He requested that WIPO - in respect of all countries and peoples, their cultures and values - write the names of the countries on the banners in their national languages.

214. Ms. BEMANYA (Uganda) reported that her Delegation was delighted to have been a part of achieving the milestone of the Treaty for audiovisual performers. She observed that their efforts to create life-changing works would be properly awarded. She indicated that her Delegation associated itself with the closing statement made by the Delegation of Egypt on behalf of the African Group. She congratulated the delegates on the successful conclusion of the Treaty, and noted that they were leaving an indelible mark not only in the arena of audiovisual performances, but also on the global intellectual property system.

215. Ms. ATTAFOUA (Ghana) commended WIPO, China and all delegations on their forbearance and respective contributions to the Conference, and particularly for the compromises they had made at critical times and the flexibility they had demonstrated. The road to Beijing had been long and arduous but at the end they were on the verge of signing the long-awaited Treaty for the Protection of Audiovisual Performances. At that juncture, the Delegate for Ghana paid tribute to everyone who had been involved in the realization of that dream. She revealed that in her youthful years, she had been an actor but that she had had to abandon the profession she had so much passion for and take up another because of the obvious uncertainties related to the performing arts at the time. She was hopeful that, after the adoption and signing of the international Treaty, Member States would put it into effect in their national laws in order to allow performers worldwide to benefit immensely from it.

216. Mr. NYIRENDA (Zambia) supported the statement delivered by Egypt on behalf of the African Group. As a country, Zambia stood ready to support all efforts aimed at improving the living standards of its artists. To that effect, the Zambian government commended WIPO for the leading role it had played in uniting Member States and providing the legal framework. Finally, Zambia celebrated, with the rest of the world, the conclusion and adoption of the Treaty.

217. Mr. SY (Senegal) stated that the Treaty had come at a time when Senegal had just adopted a new law putting authors and performers at the heart of its regulatory framework. The law stated clearly that authors and performers were the source of intangible riches that were

subsequently developed by various producers. That did not prevent the legitimate claims of those who, through the work they had invested, had made the creation of those cultural riches possible. The national law of Senegal reinforced a strong and enduring moral right, broadly and globally defined the recognized primary prerogatives of rights holders, and developed a specific contractual right to compensate for the poor economic position in which authors and performers found themselves in relation to producers, by dispelling all ambiguity regarding the inclusion of digital use in such a definition. Similar protective provisions existed in other national legislations, but their effect was weakened by the territorial nature of jurisdictions at a time when audiovisual productions were becoming increasingly internationalized. The adoption of the Treaty was therefore most welcomed, and constituted a significant step in the struggle to free performers of the legal insecurity in which they lived. The Delegation recalled that, despite all the happiness that their works had brought to humankind, Mozart had died alone, accompanied to his tomb by his dog and his phantom, while Villon had stolen to eat. The task, therefore, would be to take up the challenge of the effectiveness of regulatory measures. The aim was to advance towards optimal protection, which was why the Delegation strongly encouraged Member States to explicitly provide for criminal penalties for all the acts targeted by the Treaty that were comparable to theft. Finally, he encouraged WIPO to ensure that the Acts of the Treaty were not abandoned to the “gnawing criticism of the mice,” and suggested that awareness-raising workshops should be organized for beneficiaries. He expressed hope that in the near future Africa would be able to host dignified regulatory discussions similar to those that had taken place in Beijing. Senegal would be happy to host such negotiations, due to its firm belief that they would offer a great opportunity to promote and boost the ideas of those taking action in support of intellectual property.

218. Mr. IANOV (Ukraine) thanked the WIPO Secretariat for the work done on the protection of audiovisual performances and also for the preparation of numerous documents required for the holding of the Diplomatic Conference. Ukraine welcomed the significant success achieved by WIPO in relation to developing a balanced and accessible international intellectual property system, strengthening the global system of legal protection for intellectual property, and also promoting the effective use of the subject matter of intellectual property rights throughout the world by providing stable and harmonious cooperation between different countries and regions. The Delegation expressed satisfaction at the results of the fruitful work done by the SCCR, and also gratitude for the inclusion in the draft version of the Treaty of the proposals made by Ukraine. The Delegation considered it essential to adopt an international treaty administered by WIPO, which would strengthen the position of performers in relation to audiovisual works, and provide such performers with a clear legal basis for protection of their performances from unsanctioned use. The Delegation also pointed out that administering the rights of performers in audiovisual works at the international level would be a decisive step on the road to guaranteeing the rights of performers to remuneration, previously only enjoyed by authors of audiovisual works. In conclusion, the Delegation thanked all participants for the successful work that had generated results during the Diplomatic Conference and, consequently, had led to the adoption of a final international instrument that would resolve in an appropriate manner the issues arising in connection with the use of audiovisual performances, both in the traditional mass media and also over digital networks.

219. Mr. MUKUMOV (Tajikistan) thanked WIPO management, the Copyright Office of the People’s Republic of China, and those who had contributed directly to the work done to prepare the Draft Treaty. The adoption of the Treaty would bridge the gap that had appeared in the protection of performers’ rights in the digital environment and performers would now be even

better protected, since they would be provided on an equal footing with both proprietary and personal non-proprietary rights. That represented progress in the protection of performances. The two treaties adopted in 1996 and the Rome Convention, all currently in force, did not provide the requisite protection for performances in the digital age. Tajikistan was a party to the WCT and the WPPT and, taking into account the requirements of the provisions of those treaties, had amended and updated its current law on copyright. That work would be continued with the adoption of the Audiovisual Performances Treaty. The Delegation thanked all those concerned for the excellent work done in organizing the Diplomatic Conference.

220. Mr. LIMA MENA (El Salvador) endorsed the statement delivered by the Delegation of Paraguay on behalf of GRULAC, expressing thanks and congratulations on the successful conclusion of the Treaty. The Delegation also thanked the WIPO Director General, and his whole team, on behalf of the Government of El Salvador, for their part in bringing the work to its current juncture. Additionally, the Delegation thanked the Member States of WIPO for the flexibility they had shown. The Delegate observed that the successful conclusion of the Diplomatic Conference, with the adoption of the Beijing Treaty on Audiovisual Performances, demonstrated the realization of one of the tasks of the United Nations, under the competence of WIPO, in relation to the important sector of performers, who had been granted protection and legal security through an international instrument. In accordance with the technology tools now available, the Treaty provided legal protection and effective remedies against the evasion of technology and rights management measures. El Salvador recognized that such rights were already covered by national legal systems, which provided the level of protection that the sector warranted, irrespective of its size. The Delegation wished to highlight that the existence of an international instrument strengthened such legal principles and also the message of international unity. The successful conclusion of the Diplomatic Conference had shown the importance the Member States continued to attach to the multilateral system; positions of common interest had been agreed to internationally, which demonstrated its great importance for different societies in relation to the common good. Even though the Diplomatic Conference was about to conclude its work satisfactorily, the Delegation encouraged the other Member States to continue with the remaining norm-setting work within the Organization, in order to achieve similar successes in the future.

221. Mr. DERIVOIS (Haiti) stated that on behalf of the Haitian government, the Prime Minister and Chancellor, Laurent Salvador Lamothe, and the President, His Excellency Mr. Michel Joseph Martelly, his Delegation wished to offer the most sincere thanks to the government and the friendly people of the People's Republic of China for the very warm welcome they had received and for the successful organization of the Conference. Adding its voice to those delegations that had already spoken, the Delegation also offered its sincere congratulations to the President of the Conference and all members of the Secretariat. It was an honor to reaffirm the confidence that Haiti had in the Director General of WIPO. The relentless efforts made by him, his team and their predecessors to make WIPO proactive, efficient, effective, more accessible to Member States, and useful for the entire world had been noted. At the present stage in the work, the spirit of consensus demonstrated over the years in the SCCR should be highlighted, and the Committee's members congratulated for the significant work that they had achieved. The adoption of the new Treaty would surely strengthen the position of performers in the audiovisual industry by establishing a clear legal basis for the use of audiovisual performances at the international level, not only on traditional platforms, but also – crucially for modern times – over digital networks. The instrument would contribute to the protection of performers' rights against the unauthorized use of their works in audiovisual media, such as

television, cinema, video and others. It was both the spirit and the direction of the historic Diplomatic Conference that had led the Delegation to adopt and sign the Treaty. The successful Diplomatic Conference that had produced the new international legal Instrument was recognized as the end of a long process dedicated to defending the interests of a profession, which at the international level, was an absolute necessity. Nevertheless, corresponding investment was not apparent. The sector needed to be boosted, protected and, most of all, organized. That was the wish of the Haitian government and President Michel Joseph Martelly, who had been a successful national and international musician before he took up his post. The President was well aware that all artists and creators were closely watching him, expressing their legitimate desire for significant changes to their living conditions on the basis of their works. Indeed, the present state of Haiti's cultural industry remained fragile and, aside from moral rights, performers were interested in preserving all their rights, particularly economic rights, even if they relinquished them by signing appropriate contracts with producers, in return for compensation in the form of fair remuneration. That matter was part of the work of the Haitian Copyright Office, which in the eyes of the law, fulfilled the role of a collective management organization for copyright and related rights. In that regard, the Copyright Office had established a full work plan and had already launched a large-scale program to implement government policy, which would provide a valid response to the needs of artists. He expressed its gratitude to WIPO and its Member States, which it would count on again for their assistance and expertise. Assistance would further establish the subject of copyright and related rights in Haiti, implementing those rights in daily life, to the great benefit of society in general and performers in particular, whether they were national or foreign. The Delegation of Haiti noted that the Diplomatic Conference, through its excellent work, had aimed to regulate and promote a healthy international environment in the field of copyright and related rights. The Delegation appreciated the full importance of that goal, and expressed the wish for sustainable solutions to the problems of artists, guaranteeing that in future, their interests and those of all professionals in the creative sector would be defended, thereby ensuring the continued expansion of the world's heritage.

Closing Declarations by Representatives of Observer Organizations

222. Mr. WAGER (WTO) stated that audiovisual performers had a remarkable capacity to reach across digital divides and broaden the understanding of human experience in all its diversity. The rise of digital technologies had opened up new pathways for accessing the work of audiovisual performers from across the globe, with the prospect of cultural enrichment for us all. The fair balance and protection of the rights of such performers was an important recognition for their cultural, social and economic contribution. A fully multilateral approach for improving their rights was an important safeguard, especially for those performers from the industry mainstream who lacked the institutional and financial support enjoyed by more globally recognized artists. By observing that process, the WTO had followed with great interest the continuing work of WIPO as it progressed towards a multilateral resolution, and recognized the landmark that had been achieved with the adoption of the Beijing Treaty.

223. Mr. MYERS (ILO) trusted that the Treaty would be widely ratified and was convinced that it would enhance the protection of performers, producers, and other rights holders around the world. To the ILO, the new Treaty was of key importance in complementing the WPPT of 1996, and it looked forward to further improvements in protection for broadcasting organizations, through a WIPO Diplomatic Conference. This would continue the work in an area where the

work of WIPO on intellectual property rights and that of the ILO on rights at work came together, as had been the case at the 1961 WIPO–ILO–UNESCO Rome Convention for the protection of performers, producers and broadcasting organizations. For those interested in that Convention, Mr. Myers noted that the next session of the Intergovernmental Committee on the Rome Convention would be held not later than a year after any decisive new development regarding the protection of the rights of performers, producers of phonograms and broadcasting organizations had taken place, and he believed that was exactly what Member States had been talking about when the Committee had met previously. It was probable that a meeting would be held in mid-2013 at the ILO in Geneva, together with WIPO and UNESCO, the joint Secretariats of that Committee.

224. Mr. BLANC (AEPO-ARTIST) appreciated the delicate process of resurrecting the partially successful Conference of 2000. The process had not been completed. Everything had been done because the adoption of that Treaty was essential for performers at the international level, but nothing could be done until the Treaty was brought into force by its ratification and, more importantly, by its implementation in national legislation. In fact the Treaty established a minimum level of protection. There were points in the Treaty where sufficient protection had not been given in the interests of performers – for example, in the area of broadcasting – and therefore Member States had the responsibility of putting satisfactory measures in place. The support of WIPO in that process would be essential to promote the development of such legislation. WIPO's support would also be necessary to protect performers in the audiovisual domain and in other domains as well, because the Beijing Treaty was going to require great efforts in its implementation, in the same way that the WPPT Treaty of 1996 still required further efforts. AEPO-ARTIS renewed its commitment to those processes and to the efforts to establish laws, implement them and to establish more generally a decent system for the protection of artists' rights.

225. Mr. SMITH (FIM) welcomed with great enthusiasm the outcome of the Conference, namely, the Beijing Treaty, which had finally brought the world's community of performers the protection that they had been waiting for, for a long time. That international agreement marked the beginning of a new era for the global community of performers, particularly in those countries where audiovisual performances had not yet been protected, or were only protected under insufficient or unfavorable conditions. He called on all Member States of WIPO to ratify the new Treaty as soon as possible. FIM was ready to ensure that the transposition into their respective national legislations provided the best possible level of protection. Putting the objectives of the Beijing Treaty into national law was the next challenge to be met.

226. Ms. MONYATSI (ARIPO) stated that ARIPO associated itself with the statement made by the distinguished Delegation of Egypt on behalf of the African Group. Furthermore, ARIPO congratulated Member States for the progress made thus far in negotiating an instrument that sought to increase the protection of audiovisual performances from an international perspective. ARIPO believed that reaching a multilateral consensus was indeed a complex and challenging process. An internationally binding instrument was undeniably critical for the protection of that category of rights. It was even more important for developing countries, where the contribution of creative industries to economic growth and development was beginning to gain more recognition, and was therefore influencing national policy and legislative directions. The protection of audiovisual performances could lead to an increase in the contribution of the creative industries. ARIPO looked forward to a successful conclusion to that important Treaty, to create an internationally harmonized system of protecting audiovisual performers.

227. Ms. LUND THOMSEN (IVF) joined the Member States and all the delegations in welcoming the adoption of the Beijing Treaty on Audiovisual Performances. The Treaty was an important milestone for WIPO, for all the stakeholders and for the entire ecosystem of the film and audiovisual sector. The successful outcome had been made possible due to the efforts of all the parties involved. Those efforts had reaffirmed the current international copyright framework and bolstered the important contribution that intellectual property made to economic and social development, as well as to creativity and to culture. IVF welcomed the balanced provisions on complex and pivotal issues, in particular on the transfer of rights in the producer. It was also an important point in securing legal certainty for film publishers. IVF also welcomed the Agreed Statement on Article 15. The language and spirit of Article 15 remained intact, and that was indispensable for the audiovisual sector to be able to develop business models that could continue to promote creativity, consumer choice, and development.

228. Mr. SHAPIRO (MPA) thanked all the participants of the Diplomatic Conference for welcoming the adoption of the Beijing Treaty on Audiovisual Performances. It was the first substantive intellectual property Treaty of the 21st century, marking an important landmark for WIPO and for all stakeholders, including audiovisual performers and producers. He observed that the successful conclusion of the Beijing Treaty had been made possible by the compromise and hard work of all parties, while reaffirming the current international copyright framework. He indicated that this reaffirmation recalled the important contribution that intellectual property could make to meaningful development around the world. He commended Member States for agreeing on balanced provisions on complex and very crucial issues for the audiovisual sector, in particular Article 12's flexible approach to the consolidation of rights in the producer, and the clarification in Article 2 regarding those creative performers who are entitled to protection of their performances. He also noted that the Agreed Statement on Article 15 did not alter or affect the legal protection of technological measures, as provided for in the Article itself, the substantive provision. He concluded by noting that this provision was increasingly important to the creative sector, to enable new business models that provided new ways for consumers to choose the way they wanted to consume content and, indeed, for development as well.

229. Ms. FELDMAN (ADAMI) explained that ADAMI was the French Association for the Management of Copyright of Artists and Performers, particularly in the fields of music and dance. She indicated that ADAMI had been supporting the Treaty for more than 15 years and that the Beijing Treaty on the Protection of Audiovisual Performances would allow actors, dancers and musicians, whose performances were audiovisually recorded, to see their rights recognized internationally. She concluded by noting that the Treaty provided protection for the rights of audiovisual performers at an international level, and would therefore make it possible for them to have remuneration to allow them to live.

230. Ms. SLEMAN (ANDI) thanked all those who had long ago believed in the Treaty, had worked hard for it throughout the various conferences in 1996 and 2000, and now were able to see the result. She celebrated that for the first time they were a part of the great international framework of protection of copyright, just like musicians and writers, who had had such privileges for decades. She highlighted that there was a general conviction among all the specialists and experts that the rights of performing artists needed to be protected. She indicated that the Treaty allowed them to reaffirm the creative character of actors and to highlight their intellectual contribution through works and audiovisual performances since they had often seen their contributions lost in the working sphere. She stressed that the Beijing

Treaty was already an historic event because of the intrinsic value it had in protecting intellectual property, as well as protecting the people who devoted their efforts and their lives to create works that reflected culture and entertainment to citizens in their daily lives. Finally, she recalled the responsibility and commitment everybody in the Diplomatic Conference had to clearly transmit, in favor of actors, the very purpose of the Treaty and also to push for its implementation so that it achieved its aims.

231. Mr. PÉREZ-SOLÍS (FILAIE) informed those present that Mr. Luis Cobos, President of FILAIE, of the Performing Artists management society (AIE), and of the International Group of Artists (GIART), was to have delivered FILAIE's final statement but he had had to cancel for professional reasons. June 19, 2012 had marked the 20th anniversary of the beginnings of the WPPT. It had been exactly 20 years since FILAIE, headed by President Luis Cobos, had requested, at the WIPO Assembly held at WIPO headquarters in Geneva, the drafting of a treaty envisaging the protection of performers. Backed by 16 countries of Ibero-America, gathered together at the *Jornadas de Madrid* event organized by the Spanish Performing Artists management society (AIE), and with the support of the Delegations of Spain, Argentina, Mexico, Paraguay, Peru and Italy, as well as that of all the other delegations, the WPPT had begun a journey through various committees that had lasted from 1993 to 1996. Within the committees, fixations of artists' performances were defined as audio or audiovisual, with dual texts drafted and included in each Article in which reference was made to phonograms and videograms. The aim had been to produce a treaty that took both elements into consideration (archives of the 1996 Diplomatic Conference on Certain Copyright and Neighboring Rights Questions). Despite efforts right up to the end of the 1992 Assembly, another four years were to pass before the WPPT was born, at the WIPO Diplomatic Conference on Certain Copyright and Neighboring Rights Questions of December 1996. That Treaty protected audio performances but not their audiovisual counterparts, which had now been included in the Beijing Treaty. FILAIE, which represented associations of artists in Latin America, the Caribbean, Spain and Portugal, congratulated WIPO, the Chinese authorities and the organizations that had made such a wonderful Conference possible. The Representative also thanked Mr. Manuel Guerra Zamorro, Director General of INDAUTOR; the Director General of WIPO; Mr. Binjie Liu, Minister of the National Copyright Administration of the People's Republic of China (NCAC); Mr. Xiaohong Yan, Deputy Minister of the NCAC, and all his team, as well as the WIPO staff, the Committee members, all delegations, groups and non-governmental organizations present as observers. The organization of the Conference had been superb and the event would no doubt signal a new and better way of working for WIPO. As a result of the Treaty arising from the Beijing Conference, China was currently on the first rung of the ladder in terms of the protection of intellectual property rights. That fact in itself constituted a milestone, with the Beijing WIPO Diplomatic Conference marking a turning point. The fact that the performers of such a heavily populated and important country as China were also involved in the process of protecting intellectual property rights was reason for satisfaction. There was a need to help them to organize and to set out on the long path towards normalization of reciprocal relations with the rest of the world. The reason for celebration was evident, as was the joy and gratitude of the performers with regard to what was vital and fair protection. It was hoped that the Treaty would help to maintain a balance between the availability of cultural works at reasonable prices and the benefits that performers should enjoy as a result of their work. Such a development would only be possible if governments were to take the entirely feasible step of providing creators and rights holders with the appropriate legal tools to compete in a global knowledge and information society. Digital technology weighed heavily in the balance. Instead of resisting, performers had to accept the inevitability of change and adapt to the natural advantage offered by technology; if

not, intellectual property rights might be endangered. Intellectual property rights had to be a catalyst for cultural dynamism. Collective management societies needed to participate actively in the major changes taking place and adapt accordingly. As the Director General had said in Australia: "We need a global infrastructure that permits simple, global licensing, one that makes the task of licensing cultural works legally on the Internet as easy as it is to obtain such works there illegally." The Treaty helped to broaden the legal and judicial arsenal available for the protection of rights, as enshrined in the Universal Declaration of Human Rights. The Representative also thanked the Delegations of Spain, Mexico, Argentina, Paraguay, Peru and Italy in particular, as well as GRULAC and the other groups and delegations, for the support they had lent to performers in concluding the WPPT and the current WIPO Beijing Treaty on Audiovisual Performances. Gratitude was also expressed on behalf of Mr. Luis Cobos to all those attending the Conference for their kind words of congratulation concerning his conducting of the magnificent Beijing Symphony Orchestra in concert at the Great Hall of the People. He said that Mr. Cobos hoped that the Conference would serve as a guide for other WIPO actions concerning the art, culture, performances and presence of artists, who, through their talent, efforts and work, highlighted the advantages offered by laws, treaties and legal provisions. Such activities bestowed upon WIPO presence and humanity, making it easier to understand both the importance of such laws and the overwhelmingly positive role of the Organization. Thanks were also offered to all the non-governmental organizations, both present and absent, delegates and other participants, for the support they had lent the legislators, as well as for their assistance, hard work and dedication.

232. Mr. MARTÍN (Latin Artis), speaking on behalf of actors from Latin American, Spain and Portugal, highlighted the quality of the discussions that had led to the successful conclusion of the Diplomatic Conference. He congratulated Member States not only for the constructive way in which they had held the discussions, but also for the spirit of flexibility and generosity that had brought them there. He highlighted the democratic values and mutual respect that had been present throughout the debates of the Conference - above ideologies, races and religions - achieving consensus in the necessary search for justice among humans. He stated that they were going back to their countries with the conviction that humanity could understand itself by talking. He quoted the German philosopher Immanuel Kant stating, "The purpose of reason is to make out of will something that is morally good in itself." He also cited Benito Juarez stating, "When among individuals and nations there was respect for mutual interest, there was peace." He indicated that those were the feelings of Latin Artis for all government representatives, non-governmental organizations, the Director of WIPO and all artists and performers. He congratulated actors throughout the world, including all those who were no longer present but whose performances had remained. He observed that after such a long wait many actors might not be aware of what had been achieved, but noted that when they were, they would certainly share those words of emotion and gratitude. Actors had asked for minimum protection for their performances so they would be able to work with more devotion on what they had always wanted to do - to perform and provide characters. They would now see their rights recognized at an international level. They had had justice after years of discrimination, depending on the medium in which their performances were fixed. The 50 years of anxiety since the Rome Convention in 1961 had now ended, with hope, gratitude and dignity, because there was no better way of granting dignity than fighting for justice, equality and work. It was like Don Quixote against the windmills. Latin Artis was very happy with the result of the Diplomatic Conference, but at the same time recognized that there was still a lot to be done. However, the Conference had set the basis on which Member States could continue to build and they should convey to their national authorities the importance of ratifying the Treaty. He emphasized that, with the

Treaty, Members were ratifying their will to adequately protect the rights of actors, and would therefore adapt their national legislation towards this. He also observed that one of the main qualities of the Treaty was that it served as a model for all those countries that did not yet have national legislation in that area. In conclusion, he cited a famous quote from the Spanish poet, Antonio Machado, "After truth, there is nothing more beautiful than fiction."

233. Mr. HAIR (AFM) indicated that the fruits of the conclusion of that historic Treaty negotiation would surely improve the lives of performing artists throughout the world. AFM congratulated its brothers and sisters in the Screen Actors Guild and the American Federation of Radio and Television Artists, and their colleagues from the Alliance of the Canadian Cinema, Television and Radio Artists, as well as the members of the other unions and guilds represented there, who would all be able to celebrate the acknowledgement of the joy they brought to the world. It was the beginning of a new commitment to fair income for audiovisual performers, one that they had to vigilantly preserve by honoring the broad consensus reached by the Diplomatic Conference. Mr. Hair concluded by urging the expeditious ratification of the Treaty by all Member States in order to transform its historic words into appropriate actions.

234. Ms. GONZALEZ (CALC) noted that the coalition of 37 organizations in Mexico that she represented was at that time considered to be an international example of all sectors interested in cultural areas, including artists, actors, and performers in audiovisual works. She stressed that Mexico was one of the greatest producers of audiovisual content throughout the world. She congratulated all the delegations, and encouraged them to continue working on the protection of copyright to preserve the culture of their countries.

235. Mr. GINISTY (FIAPF) congratulated all the participants in the Diplomatic Conference and highlighted his satisfaction at the effective updating of the protection of audiovisual performances provided by the Treaty, in line with the standards of the WPPT and the WCT. He stressed that the Treaty granted substantive rights to one of the most important communities of creative participants in audiovisual works. It would help to build up the global legal security on which the success of audiovisual production depended, to achieve financial sustainability, to play a full part in the economic development of all WIPO Member States, and to contribute to cultural diversity. FIAPF stated that the contribution of copyright and related rights to economic and social development should remain foremost in the minds of Member States, as they considered the issues under discussion in the SCCR.

236. Ms. HAALAND (FIA) described her experience working in Beijing with the Central Experimental Theater, playing "Nora" in *A Doll's House*, and noted that at that time there had been no copyright protection for her performance. She introduced herself as the President of FIA and on behalf of hundreds of thousands of actors represented by member unions all over the world, she thanked with one voice all the delegates for the extraordinary success in the historic Diplomatic Conference. She stated that the Treaty was not only an achievement for performers worldwide, but also for WIPO itself since it put to rest any questions about the viability of WIPO as the international norm-setting body for intellectual property issues. She called on Member States not only to sign the Treaty there in Beijing, but to continue the spirit of solidarity and cooperation, by moving swiftly to achieve ratification of the Treaty at home so that it could enter into force as soon as possible. She stressed the practical and symbolic impact of the conceptual agreement that had been reached. As the first major multilateral intellectual property convention concluded in China its impact should not be underestimated. She stated that the signal it sent about the relevance of the protection of intellectual property rights in the

digital area was crucial. She also observed that while actors often pretended to be queens and presidents, thanks to the Chinese hospitality they had not needed to pretend. She quoted her colleague, the actor Simon Burke, who had said that the period between the 2000 Diplomatic Conference and the current one had been the longest coffee break in WIPO history. Ms. Haaland concluded by stressing her immense satisfaction and great pride in the result of the Conference, and declared that the coffee break was over at that precise moment. That day they were making history and she was very happy.

237. The PRESIDENT, after completing the list of speakers, gave the floor to the Chair of the WIPO General Assembly.

238. Mr. ZVEKIĆ congratulated all WIPO Member States on the successful and historic outcome of the Diplomatic Conference, which, after a long, great march towards the 2012 Beijing Treaty, had achieved the common goal of harmonizing the protection of audiovisual performances in the international legal framework. He highlighted the significant and substantial efforts and the cooperation among Member States, in a climate that had been constructive, flexible and pragmatic. He looked forward to continuing in that excellent working atmosphere during the following session of the WIPO General Assemblies.

239. The PRESIDENT stressed that the conclusion of the Beijing Treaty was due to the active participation and sincere cooperation among the more than 150 Member States of WIPO. He hoped that the spirit of friendship, mutual trust and harmony would continue to be carried forward in other multilateral consultations at WIPO. He thanked all the delegations, the Vice-Presidents of the Conference, and the Chairs and Vice-Chairs of the Committees for their hard efforts. He also thanked the Director General of WIPO, and all the members of the Secretariat. He thanked the Government of the People's Republic of China and the people of Beijing for their hospitality and the arrangements. He thanked all the staff of the Conference, the attending journalists and other friends present for their support. He concluded by stressing that their support had created the day's success. The President of the Diplomatic Conference declared closed the WIPO Diplomatic Conference on the Protection of Audiovisual Performances.

240. The PRESIDENT closed the Diplomatic Conference.

241. Ms. WOODS (Secretariat) indicated the schedule for the Signing and the Closing Ceremony.

242. The PRESIDENT requested that the WIPO Secretariat provide additional information regarding the signing procedure during the Ceremony.

243. Mr. KWAKWA (Secretariat) invited the delegates to pick from a box the name of the first delegation that would sign the Treaty or the Final Act that afternoon. He informed the Plenary that the delegations that would follow that first delegation would correspond to the alphabetical order of delegation names in French. He indicated that delegations would be called to come up to the podium, take their seat and sign the Treaty or Final Act. Finally, he invited a representative from the WIPO Secretariat to pick the first country that would sign the Treaty or Final Act that afternoon.

244. The PRESIDENT agreed with the arrangements made by the WIPO Secretariat for the Signing Ceremony.

SUMMARY MINUTES OF THE PLENARY

245. Mr. KWAKWA (Secretariat) announced that the first country to sign the Treaty would be Bangladesh.

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SUMMARY MINUTES OF MAIN COMMITTEE I

SUMMARY MINUTES OF MAIN COMMITTEE I

prepared by the International Bureau

Chair: Mr. Manuel GUERRA ZAMARRO (Mexico)

Secretary: Ms. Michele WOODS (WIPO Secretariat)

First Meeting
Thursday, June 21, 2012
Morning

246. Mr. GUERRA ZAMARRO (Mexico) stated that all the hopes of audiovisual performers had been placed in the work of the Diplomatic Conference, which had the responsibility of responding to the desires of the audiovisual sector and all of the creative industries. He reiterated his determination to keep an open and inclusive dialogue and a climate of transparency and impartiality to build the necessary consensus. In order to successfully complete the work ahead, it was necessary to stick to the agreements that had already been made, including the historic agreement on Article 12, which had brought progress after a decade of stalemate, thus enabling a positive outcome to be attained during in the present Diplomatic Conference. Those agreements had been reached during the twenty-second and twenty-third sessions of the Standing Committee on Copyright and Related Rights (SCCR) and showed the absolute need to have international rules regulating the relations between audiovisual industries and performers. Main Committee I was responsible for proposing the substantive provisions of the Treaty for the consideration of the Plenary, as well as all recommendations, resolutions or agreed statements related to the international instrument, in accordance with the recommendation of the WIPO General Assembly (WO/GA/40/11). In that context, the responsibility of Main Committee I was to propose, for the consideration of the Plenary, the adoption of a treaty containing the following elements: the 19 Articles approved in the Diplomatic Conference on the Protection of Audiovisual Performances of 2000, with their respective Agreed Statements, the Article 12 provision, adopted by the SCCR in 2011, and the three Agreed Statements, with regard to Articles 1, 2, and 15, the exact drafting of which was still open. Moreover, an additional consideration was to be inserted in the Preamble, recognizing the importance of the Development Agenda. Proposals from the Member States on those issues had needed to be submitted to the WIPO Secretariat at least one month before the convening of the Diplomatic Conference, which was before May 20, 2012. The WIPO Secretariat had received proposals from a number of countries.

247. Mr. GUERRA ZAMARRO (Mexico) proposed the adoption of the 19 articles provisionally adopted in 2000, with their respective Agreed Statements, as well as the adoption of Article 12, as agreed upon by consensus at the twenty-second meeting of the SCCR. The Chair declared those elements agreed. According to the procedure, the Chair moved to consider the three

SUMMARY MINUTES OF MAIN COMMITTEE I

additional agreed statements in connection with Articles 1, 12, and 15, as well as the preambular text, and invited Regional Coordinators plus two members of each group to meet.

248. Mr. FARAHAT (Egypt), speaking on behalf of the African Group, congratulated the Chair on the adoption of the important Articles from 1 to 20, and requested that the format of consultations be extended to make it Regional Coordinators plus three group members, since the African delegations were numerous and would like to have as much participation as possible.

249. Mr. GUERRA ZAMARRO (Mexico) confirmed that it was possible to extend the number of persons accompanying each Regional Coordinator to three.

250. Mr. SHIBATA (Japan) clarified Japan's understanding regarding Article 12, especially in connection to its relationship to the Treaty and to certain provisions on the exclusive rights of performers. At the 2011 WIPO General Assembly, it was stated that Japan did not interpret Article 12 as forbidding a series of arrangements. The background of those arrangements under the national law of Japan was Article 19 of the 1961 Rome Convention. According to that provision, once a performer had consented to the incorporation of their performance in a visual or audiovisual fixation, Article 7, containing the minimum protection of performers, would no longer be applicable. For example, under Article 91 of the national law of Japan, a performer's exclusive right to make sound or visual recordings of their performance would not apply to performances that had been incorporated in cinematographic works, with authorization of the owner of the right. As mentioned before, Japan understood that under Article 12 of the Beijing Treaty, once a performer had consented to fixation of their performance, Contracting Parties could define in their national law how to regulate the performer's exclusive rights of authorization. Japan also understood that the provisions of its domestic copyright law, including Article 91, which determined how to deal with a performer's exclusive rights after the performer had consented to the fixation of their performance, were consistent with the Treaty. Japan wished to put on the record that clarification, namely the aforementioned understandings on the consistency between the Treaty and national laws of contracting parties, including the Japanese copyright law.

251. Mr. BENCHEIKH EL HOCINE (Algeria) took the floor on behalf of the Development Agenda Group (DAG) and expressed the Group's readiness to contribute constructively to the resolution of the pending issues, including by engaging in the informal consultations that the Chair had proposed.

252. Mr. HUGHES (United States of America) believed that the plan proposed by the Chair to move forward on the Agreed Statements was an excellent plan, including the recommendation that the discussions accommodate the Regional Coordinators, plus three. The United States took note of the statement by the distinguished Delegation of Japan and wanted to study it further.

253. Mr. MASOUD POUR (Iran (Islamic Republic of)) made a short comment on Article 12. The article was self-explanatory and did not establish a uniform, global approach towards the transfer of rights in national law. In fact, the national law would determine whether a transfer of rights from performer to producer would take place once a performer had consented to fixation of their performance in an audiovisual fixation. In other words, the Article did not have any mandatory effect over the national legislation of the Member State.

SUMMARY MINUTES OF MAIN COMMITTEE I

254. Ms. CHADHA (India) requested some time to have internal consultations about the statement made by the distinguished Japanese Delegation on Article 12.

255. Mr. GUERRA ZAMARRO (Mexico) informed the Committee that there had been an informal meeting among Member States with respect to the three Agreed Statements, regarding Articles 1, 2 and 15. An additional clause recognizing the importance of the Development Agenda had been introduced. He pointed out that each point had been specifically addressed during the meeting, giving the example of Article 1, which had been discussed. He noted that approval had been indicated for the inclusion of the WPPT. With regard to TRIPS, there had been significant approval for its inclusion. The Chair noted that Article 2 had been welcomed by India and the United States of America, and there had been statements by Japan and the European Union and many other countries. He also noted that with Article 15, there had been significant contributions relating to the ideas of the European Union, the United States of America, Algeria, and countries had clearly showed their willingness to work hard to reach consensus as soon as possible.

Second Meeting
Friday, June 22, 2012
Afternoon

256. Mr. GUERRA ZAMARRO (Mexico) opened the session and reported briefly that the informal meetings of Main Committee I had had positive outcomes. Not only the Regional Coordinators, but many delegations had also participated and made their contributions towards building consensus. The Agreed Statement on Article 1 had the objective of clarifying the relationship between the WPPT and the WIPO Treaty on Audiovisual Performances. He presented document AVP/DC/9, containing a proposal from Brazil, the European Union and its Member States, Turkey, and the United States of America, for consideration by the Member States. As the issue had already been discussed, and no other delegations wished to comment, the solution was approved. He asked the coordinator of the Asian Group whether there had been any updates on the negotiations on Article 2.

257. Mr. KHOUBKAR (Iran (Islamic Republic of)) said he had received different comments on Article 2 and ultimately the Group supported the proposal.

258. Mr. GUERRA ZAMARRO (Mexico) accordingly submitted, for the consideration of Main Committee I, the proposed Agreed Statement on Article 2 on definitions, and asked the Secretariat to read the text of the proposal.

259. Ms. WOODS (Secretariat) read the text of the consensus proposal for the Agreed Statement on Article 2: "It is understood that the definition of a performer includes those who perform a literary or artistic work that is created or first fixed in the course of the performance."

260. Mr. GUERRA ZAMARRO (Mexico), noting that no comments had been raised, declared the discussed solution approved. The session was adjourned.

SUMMARY MINUTES OF MAIN COMMITTEE I

Third Meeting Saturday, June 23, 2012 Afternoon

261. Mr. GUERRA ZAMARRO (Mexico) reconvened Main Committee I and submitted for consideration and approval the Agreed Statement for Article 15 and the Preamble.
262. Mr. GUERRA ZAMARRO (Mexico) declared the proposals approved.
263. Ms. GRAZIOLI (Switzerland) stated that she was pleased with the decision taken by Main Committee I and pointed out that her delegation understood that Article 15, and the respective Agreed Statement, corresponded *mutatis mutandis* to the WCT and WPPT. She stressed that the reference in the Agreed Statement to “effective and necessary measures” indicated a way by which undue barriers to the enjoyment of limitations and exceptions might be avoided, and did not create an obligation either to provide for specific proceedings or to establish an administrative or judicial body, prior to the enjoyment of exceptions and limitations.
264. Mr. HUGHES (United States of America) concurred with the statement and interpretation given by Switzerland.
265. Mr. SHIBATA (Japan) endorsed the statement delivered by Switzerland.
266. Mr. MASOUD POUR (Iran (Islamic Republic of)) endorsed the statement given by Switzerland.
267. Mr. SY (Senegal) associated himself with the statement delivered by Switzerland but noted that Switzerland was apparently stating that Article 15 was in the Drafting Committee. He recalled that in his national law, when referring to civil penalties, there were also criminal penalties. He stated that where the Treaty discussed “making available”, sanctions should not be restricted to civil penalties but should also allow criminal ones. Even if it was said that national legislation could and should go further than the Treaty, he thought that the Treaty had to establish certain principles, one of which was that piracy was a crime. Thus, when somebody was guilty of stealing, they should be subject to penal law and not just civil law.
268. Mr. GUERRA ZAMARRO (Mexico) invited Main Committee I to formally adopt the first Agreed Statement of Article 1 relating to the TRIPS Agreement.
269. Mr. GUERRA ZAMARRO (Mexico) declared the proposal adopted.
270. Mr. SATO (Japan) noted that the Delegation of Japan had a clarification on the statement made on June 21. He explained the situation in Japan regarding the relationship between contracts and copyright law. Audiovisual performers and producers made various contracts when an audiovisual work was produced. Based on those contracts, performers enjoyed favorable conditions regarding the secondary exploitation of their fixed performances. Those kinds of contracts were valid according to Article 91 of the Japanese Copyright Law.

SUMMARY MINUTES OF MAIN COMMITTEE I

271. Ms. GRAZIOLI (Switzerland) asked the Legal Counsel whether the entirety of the documents constituting the archive for 2000 would be included in the records of the 2012 Conference.

272. Mr. KWAKWA (WIPO Secretariat) confirmed that the records of the Diplomatic Conference of 2000, as well as the reconvened Diplomatic Conference of 2012, would be a part of the entire record.

273. The CHAIR submitted for the consideration of the Committee the Agreed Statements on Articles 1, 2, and 15, and the additional clause in the Preamble that recognized the importance of the Development Agenda. He noted that the Committee had approved all the texts.

274. Mr. LIM (Republic of Korea) referred to Article 15 in relation to Article 13. He said that his government fully agreed with the Statement, which aimed at striking a balance between the interests of rights holders and users. The statement proposed by the Republic of Korea in the 1996 Diplomatic Conference regarding Article 13, Paragraph 1 of the Draft WCT, and Article 22, Paragraph 1 of the Draft WPPT, had become Article 11 and Article 18 of the WCT and WPPT, respectively, regarding obligations on technological measures of protection. At the time, the Republic of Korea had proposed that laying down conditions on technological measures designed to protect productions or performances or phonograms, which were not protected by law, or in which the exclusive rights were limited by law, was a matter of consideration by the Contracting Parties. The Proposed Amendment and Agreed Statement can be found in the records of the 1996 Diplomatic Conference, published by WIPO in 1999. The Republic of Korea had tried to emphasize that technological measures should not be applied in a way that would unnecessarily and excessively limit the use of materials, which were supposed to be used freely for the purpose of maintaining the delicate balance between the rights of rights holders and the public interest. Unfortunately, those proposals remained outside the purview of the WCT and the WPPT. However, he was very pleased to see an Agreed Statement at the 2012 Diplomatic Conference, similar to what the Republic of Korea had proposed at the 1996 Diplomatic Conference. He strongly believed that other Member States were also sharing the primary objective of the proposal enshrined in the Agreed Statement of Article 15. The Republic of Korea believed that although they could not go back to the successfully concluded discussions of 1996, adopting the Agreed Statement to Article 15 in different countries would bring the same understanding regarding Article 11 of the WCT as well as Article 18 of the WPPT. In other words, putting the technological measures and limitations and exceptions in a balanced perspective was not confined only to the protection of audiovisual performances, but also extended to the protection of literary and artistic works as well as other matters, including all performances.

275. Ms. GWENANG (Cameroon) expressed her satisfaction regarding the excellent outcome of a process that had commenced 12 years earlier. She called upon all the States to make every effort in order to ensure that the rights of performers were respected in traditional media and in digital networks. The compromise reached in Article 12, concerning the transfer of rights, could easily be adapted to national legislations, and the Agreed Statements would also make it possible to better interpret the Treaty.

276. Mr. HUGHES (United States of America) said his Delegation had listened very carefully to the remarks of the distinguished Delegation of the Republic of Korea, and would study them carefully. The United States of America welcomed the remarks regarding an appropriate mechanism recognized in the Agreed Statement to Article 15. To the degree that the Agreed Statement on Article 15 of the Treaty was related in any way, shape or form to the WPPT, he

SUMMARY MINUTES OF MAIN COMMITTEE I

emphasized that one of the Agreed Statements worked upon had made it clear that nothing in the Treaty affected the interpretation of the WPPT. Those questions were best left to the mysteries of court decisions and academic writing in the future, and were not something the Conference should try to sort out at that moment.

277. Ms. MARTIN-PRAT (European Union) said that the European Union and its Member States welcomed the Agreed Statement on Article 2, which clarified that the definition of “performer” also covered those whose performances were improvisations, whether they remained unfixed or were fixed. She clarified that the European Union and its Member States understood that Article 12 left full discretion to Contracting Parties to regulate or not, under national laws, the relationship between performers whose performances were fixed in audiovisual fixations and audiovisual producers regarding the transfer of rights. Finally, she supported the statement of the United States of America with regard to the remarks made by the Delegation of the Republic of Korea on the Agreed Statement on Article 15.

278. Mr. GUERRA ZAMARRO (Mexico) said he was honored to conclude the work of Main Committee I and was delighted to have reached a successful conclusion. He thanked the WIPO Secretariat for its hard work, as well as the Government of the People's Republic of China for its generosity and the way in which it had made the participants of the Conference feel at home in Beijing. He declared the work of Main Committee I concluded.

[End of document]

SUMMARY MINUTES OF MAIN COMMITTEE II

SUMMARY MINUTES OF MAIN COMMITTEE II

prepared by the International Bureau

Chair: Mr. Justin HUGHES (United States of America)

Secretary: Mr. Edward KWAKWA (WIPO Secretariat)

First Meeting Saturday, June 23, 2012 Afternoon

279. Mr. HUGHES (United States of America) stated he wanted to convene the first meeting of Main Committee II of the Diplomatic Conference. The Secretariat was asked to introduce the document relating to the procedural articles that had been brought to the Diplomatic Conference by the Preparatory Committee, which had met on November 30 and December 1, 2011.

280. Mr. KWAKWA (WIPO Secretariat) drew the Committee's attention to document AVP/DC/4, which contained the Basic Proposal for the administrative and final clauses of the Treaty, to be considered by the Conference. The provisions dealt with the Assembly, the International Bureau, eligibility for becoming party to the Treaty, rights and obligations under the Treaty, signature of the Treaty, entry into force of the Treaty, the effective date of becoming party to the Treaty, denunciations, languages and depositary functions. Delegations were invited to provide comments.

281. Mr. HUGHES (United States of America) stated that the Drafting Committee would receive the various articles from Main Committee I and Main Committee II to ensure their proper translations, grammar and punctuation in all the relevant languages. The Director General and the Secretariat had recommended that articles be sent as soon as possible to the Drafting Committee. In addition to the Basic Proposal described by Mr. Kwakwa, delegations had been invited to consider a technical amendment submitted by the Delegation of the European Union and its Member States, which was contained in document AVP/DC/5. He proposed to send Article 27 to the Drafting Committee and invited Main Committee II to endorse Articles 20 to 26, and then 28 to 30.

282. Mr. HUGHES (United States of America) opened the floor for questions.

283. Mr. SY (Senegal) asked what the approach would be with respect to Article 12, since Senegalese legislation went beyond the provisions of the Treaty. He inquired as to whether all the elements of the law would be harmonized or integrated as they were providing far-reaching protection.

284. Mr. HUGHES (United States of America) said that Main Committee I, which had met previously, had already sent Articles 1 to 20 of the Draft Treaty to the Drafting Committee. Therefore, he had made a mistake in his initial statement as Main Committee II was discussing Article 21 onwards. The Delegation of Senegal had raised a legitimate question, which was a matter of national law and for Main Committee I's consideration.

285. Mr. GURRY (Director General of WIPO) confirmed that the issue was a question of internal constitutional procedures at the national level.

Second Meeting Sunday, June 24, 2012 Afternoon
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286. Mr. HUGHES (United States of America) said that the only item of business was a proposal for a technical amendment to Article 27, presented by the Delegation of the European Union. Delegates would find it as document AVP/DC/5.

287. Ms. MARTIN-PRAT (European Union) said that Member States had submitted a technical amendment to Article 27. There was a typographic error that needed to be corrected in the proposal because instead of Article 26, Paragraph (ii), the text should read Article 23, Paragraph (ii). She proposed to clean up the text of the Article, which had a contradiction between Paragraphs (i) and (iii), regarding the date of becoming Party to the Treaty. A contradiction would emerge because the European Union would be covered in the current text of Paragraphs (i) and (iii). Paragraph (i) read that the date of becoming a Party was the date of the entry into force of the Treaty, while Paragraph (iii) read that the date of becoming a Party would be three months after the Treaty entered into force. In order to avoid a contradiction between the two paragraphs, Ms. Martin-Prat proposed to delete Paragraph (iii) referring to the European Union and instead include an encompassing reference in Paragraph (ii) to "all eligible parties referred to in Article 23."

288. Mr. HUGHES (United States of America) said that his understanding was that the request referred to the deletion of existing Paragraph (iii), and the change as shown in Paragraph (ii). In addition, the reference to "Article 26" should change to "Article 23."

289. Ms. MARTIN-PRAT (European Union) confirmed that his understanding was correct.

290. Mr. HUGHES (United States of America) mentioned that a friendly amendment would be to renumber existing Paragraph (iv) as Paragraph (iii).

291. Ms. MARTIN-PRAT (European Union) confirmed that that was also correct.

292. Mr. RIVAS MELHADO (El Salvador) mentioned that in the Spanish version of document AVP/DC/5, the word "party" appeared in Paragraph (ii) written with a lower-case letter, whereas it should be in upper-case as it refers to the Contracting Party.

293. Mr. HUGHES (United States of America) said the remark would be dealt with by the Drafting Committee in order to make it consistent and correct the word “Party” throughout the text of the Treaty.

294. Mr. JAHANGIRI (Iran (Islamic Republic of)) made two remarks. The first point was regarding a redundancy in Paragraph (iv) after the deletion of Paragraph (iii) of Article 27. Because “each other eligible party” was mentioned in Paragraph (ii), then Paragraph (iv) actually should be deleted. The second point was a clarification about the criteria for the General Assembly to admit or reject any intergovernmental organization to become party to the Treaty.

295. Mr. HUGHES (United States of America) said that his understanding of how that would work was that the last paragraph, which was now Paragraph (iv), would not be redundant. Perhaps the wording would have to be changed slightly, but it was not redundant. There would still be intergovernmental organizations that could be admitted to become party to the Treaty. He asked the Legal Counsel to clarify the matter.

296. Mr. KWAKWA (WIPO Secretariat) replied that if an intergovernmental organization wished to become an eligible Party, it had to make a declaration as the European Union had already done. That declaration made the intergovernmental organization eligible to become a Party. The reasoning behind Paragraph (iv), which would become Paragraph (iii), was that intergovernmental organizations were distinguished from other eligible parties in the sense that to be an eligible Party, an intergovernmental organization had to make a declaration.

297. Mr. JAHANGIRI (Iran (Islamic Republic of)) said he was flexible regarding the first issue. He still believed that Paragraph (ii) covered intergovernmental organizations. The second point concerned the criteria by which the General Assembly decided, admitted or rejected an intergovernmental organization to become party to the Treaty.

298. Mr. HUGHES (United States of America) noted that Paragraphs (ii) and (iv) were duplicative or overlapping. In his mind it was not dangerous, so the Committee could decide to leave it or delete it, understanding that sometimes treaties said the same thing over and over again.

299. Mr. JAHANGIRI (Iran (Islamic Republic of)) said that the duplication was not reasonable.

300. Mr. HUGHES (United States of America) asked whether delegations would oppose the deletion of the final paragraph.

301. Ms. TOTIĆ (Serbia) said that, in order to include international organizations in the meaning of Article 27, Paragraph (ii), it should read “Each eligible party” instead of “Other States.”

302. The CHAIR noted that the proposal from the European Union already amended Paragraph (ii) in that respect. It read: “Each other eligible party referred to in Article 23 from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO.” He noted that the suggestion made by the

Delegate from the Islamic Republic of Iran had also been accepted and it would be passed to the Drafting Committee.

303. Mr. JAHANGIRI (Iran (Islamic Republic of)) requested an answer about the criteria for the General Assembly to admit or reject any application from an intergovernmental organization to become party.

304. Mr. HUGHES (United States of America) made reference to Article 23, Paragraph (ii), saying it was inaccurate to call it the "General Assembly." The Treaty would actually have an "Assembly." The General Assembly was something reserved for the WIPO Convention. He noted that the amendment of Article 27 proposed by the European Union had been accepted.

Third Meeting Sunday, June 24, 2012 Afternoon

305. Mr. HUGHES (United States of America) referred to page 12 of document AVP/DC/17 in English. Article 27, Paragraph (ii) stated "Each other eligible party referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument with the Director General of WIPO." He recalled that Document AVP/DC/5, which was the technical amendment proposed by the European Union, referred to the phrase "has deposited its instrument of ratification or accession." He noted that the words "of ratification or accession" were missing, and that the paragraph should actually read "Each other eligible party, referred to in Article 23, from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO." He noted the Committee had accepted the correction. Finally, he thanked the WIPO Secretariat for its tremendous support, and also thanked the Government of the People's Republic of China for making everybody feel welcome, and for an efficient and incredibly wonderful Diplomatic Conference. He declared the work of Main Committee II concluded.

PARTICIPANTS

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NON-GOVERNMENTAL ORGANIZATIONS

VI. NON-GOVERNMENTAL ORGANIZATIONS

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WIPO Publication No. 320EN/2023