

## **Diplomatic Conference on the Protection of Audiovisual Performances**

**Beijing, June 20 to 26, 2012**

### **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.

Draft

WIPO Audiovisual Performances Treaty

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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.

[Article 21 continues]

[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.

[Article 21 continues]

[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 22

International Bureau

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

[End of Article 22]



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.

[End of Article 23]



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.

[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 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.

[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 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.

[End of Article 26]



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 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 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.

[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]