

# WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

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## ASSEMBLIES OF THE MEMBER STATES OF WIPO

### Thirty-Fourth Series of Meetings Geneva, September 20 to 29, 1999

#### CONSTITUTIONAL REFORM

##### *Memorandum of the Secretariat*

- I. At the meetings of the Assemblies of the Member States in September 1998, the WIPO General Assembly took note of the contents of document A/33/3 on Constitutional Reform that had been presented to it (see document A/33/8, paragraph 129).
- II. At the same meetings, it was decided to retain on the agenda for the meetings of the Assemblies of the Member States in September 1999 the item "Constitutional Reform." It was further agreed that the memorandum of the Secretariat on constitutional reform contained in document A/33/3, which had been noted by the WIPO General Assembly, should be re-submitted to the meetings of the Assemblies in September 1999 (see document A/33/8, paragraphs 163 to 175).
- III. It was also suggested by a number of delegations that Member States be invited to submit comments on the issues considered in the memorandum of the Secretariat and that any comments submitted by Member States be distributed by the Secretariat to all Member States before the meetings of the Assemblies in September 1999 (see, in particular, document A/33/8, paragraphs 165 and 168).
- IV. The following pages of this document reproduce the memorandum of the Secretariat on constitutional reform that was contained in document A/33/3. In conformity with the

discussions at the meetings of the Assemblies in September 1998, the following technical changes have been made in the document:

(i) The section on the policy on mandates of Directors General (paragraphs 51 to 54) has been updated to reflect the decisions that were taken on this matter at the meeting of the Assemblies of the Member States in September 1998;

(ii) Data on the membership of WIPO and the Unions administered by WIPO have been updated to reflect the accessions and ratifications that have taken place since the memorandum was first drafted;

(iii) The last section of the memorandum, which contained suggestions on a timetable that could be adopted if Member States decided to pursue any initiatives for constitutional reform, has been deleted since the dates are no longer relevant.

V. The Member States of WIPO are invited to submit comments on the issues discussed in the ensuing memorandum by July 9, 1999, with a view to the circulation by the Secretariat of any comments submitted to all Member States.

*VI. The respective Assemblies and other organs of WIPO and the Unions administered by WIPO are invited to consider what, if any, action they may wish to take in respect of the various decisions and other actions referenced in the ensuing memorandum.*

[FORMER HEADER

A/33/3

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**ASSEMBLIES OF THE MEMBER STATES OF WIPO**  
**Thirty-Third Series of Meetings**  
**Geneva, September 7 to 15, 1998**

CONSTITUTIONAL REFORM

*Memorandum of the Secretariat*

1. The Member States of WIPO have, in recent years, adopted or considered a series of policies which ultimately require, for their implementation, amendment of the Convention Establishing the World Intellectual Property Organization (“the WIPO Convention”) and at least certain of the other treaties administered by WIPO.
2. The *first* such policies relate to the unitary contribution system and changes in contribution classes. In 1993, the WIPO Conference and the Assemblies of the Paris and Berne Unions adopted the unitary contribution system in replacement of the multiple contribution system provided for in the WIPO Convention and the treaties administered by WIPO. The unitary contribution system was adopted on a provisional basis, pending the amendment of the relevant provisions of the WIPO Convention and the treaties administered by WIPO that provide for the payment of contributions by Contracting States. In 1989, 1991 and 1993, the same organs also adopted new contribution classes on the same provisional basis, pending the amendment of the requisite treaties to bring the provisions of those treaties into line with the new classes.
3. A *second* such policy arises out of the work of the Working Group on Policies and Practices for the Nomination and Appointment of Directors General, which was established in 1998 by the WIPO Coordination Committee. At its second and final session on July 2 and 3, 1998, the Working Group decided to recommend to the WIPO Coordination Committee the adoption of a policy limiting the number of mandates that may be served by Directors General of WIPO to two mandates of six years each, and further recommended that the policy should be reflected in an amendment to the WIPO Convention. Following the decision of the WIPO General Assembly at its meeting in September 1998 (see document WO/GA/23/7, paragraph 22), a proposal for the amendment of Article 9(3) of the WIPO Convention has been submitted to the Member States for the consideration of the Assemblies of the Paris and Berne Unions and the WIPO Conference at their meeting in September 1999 (see document A/34/4).

4. A *third* series of policies arise potentially out of the logic of the WIPO Program and Budget for the 1998-99 biennium, which was adopted by the Assemblies of the Member States at their meeting from March 25 to 27, 1998. That Program and Budget contained certain proposals for the simplification and rationalization of the governance structure of WIPO. Those proposals, together with a description of the governance structure of WIPO, were also set out in a document entitled "The Governance Structure of WIPO" (A/32/INF/2).

5. The proposals for simplification which were adopted in the 1998-99 Program and Budget related to committees constituted directly by the Assemblies of the Member States of WIPO. They did not deal with organs or bodies constituted by the treaties administered by WIPO, for the obvious reason that this class of organ or body, being constituted by a treaty, can only be modified pursuant to the treaty-amendment procedure established by the treaties concerned.

6. Given that it appears necessary to set in motion the procedure for treaty amendment because of the new practices relating to the unitary contribution system and contribution classes and the policy on limitation of mandates of Directors General, the Member States may consider it appropriate to take advantage of this occasion for constitutional amendment to review certain further options, which are described below, for change in the governance structure. The general objective of the further options is the continuation of the work of simplifying and rationalizing the governance structure of WIPO begun in the 1998-99 Program and Budget.<sup>1</sup>

7. The present document deals with these various policies and options for constitutional reform. It does not contain proposals on the drafting and details of possible amendment to the treaties administered by WIPO. Rather, it deals with the general policy choices and invites the Member States to decide whether and, if so, when and how, they wish to pursue these policies by initiating the process of treaty amendment.

8. The document is divided into the following sections:

- (i) Procedures for Treaty Revision or Amendment;
- (ii) Unitary Contribution System and Changes in Contribution Classes;
- (iii) Policy on Mandates of Directors General;
- (iv) Simplification of the Structure of Assemblies and Conferences of Member States;
- (v) Other Matters.

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<sup>1</sup> Certain of the proposals set out in the 1998-99 Program and Budget relating to those parts of the governance structure of WIPO that do *not* require treaty amendment still require action on the part of the Member States in order to be implemented. These proposals are dealt with in separate documents (see "Integration of Budget and Premises Committees," document WO/GA/23/4, and "Permanent Committees on Development Cooperation," document WO/CF/16/1). The present document deals only with proposals or options that require treaty amendment.

I. Procedures for Treaty Revision or Amendment

9. The Two Procedures. The treaties administered by WIPO (“the WIPO treaties”) generally envisage two procedures for amendment: (i) revision pursuant to a diplomatic conference, and (ii) amendment pursuant to a special procedure before the Assembly or other competent organ of the Contracting States.

10. As a general rule, the procedure for revision pursuant to a diplomatic conference applies to the substantive provisions of the WIPO treaties, as well as to the final clauses dealing with eligibility to become party to the treaty and cognate matters. As a general rule also, the special procedure for amendment by the Assembly or other competent organ of the Contracting States applies to the provisions of the WIPO treaties that deal with the administration of those treaties, namely, the provisions governing the Assembly of Member States, the International Bureau, and finances. One exception to this general scheme is the WIPO Convention. All of the provisions of the WIPO Convention may be amended through a special procedure before the WIPO Conference, without the necessity of convening a diplomatic conference.<sup>2</sup>

11. Annex I to this document contains a table which lists each of the WIPO treaties, cites the pertinent provision (if any) in each which deals with the amendment of the treaty through the special procedure before the Assembly or other competent organ of the Contracting States and lists which provisions in the relevant treaty may be modified pursuant to that provision.

12. Steps Involved in the Special Procedure of Amendment by the Assembly. The provisions governing the special procedure for amendment of a treaty by the Assembly of Contracting States are similar, but not identical, in the WIPO treaties. In general, those provisions contemplate four steps:<sup>3</sup>

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<sup>2</sup> This apparent exception in fact conforms to the rationale of the general scheme, since the WIPO Convention is essentially an administrative treaty that does not create substantive obligations in the field of intellectual property.

<sup>3</sup> See, for example, Article 17 of the WIPO Convention, which provides as follows:

“(1) Proposals for the amendment of this Convention may be initiated by any Member State, by the Coordination Committee, or by the Director General. Such proposals shall be communicated by the Director General to the Member States at least six months in advance of their consideration by the Conference.

“(2) Amendments shall be adopted by the Conference. Whenever amendments would affect the rights and obligations of States party to this Convention not members of any of the Unions, such States shall also vote. On all other amendments proposed, only States party to this Convention members of any Union shall vote. Amendments shall be adopted by a simple majority of the votes cast, provided that the Conference shall vote only on such proposals for amendments as have previously been adopted by the Assembly of the Paris Union and the Assembly of the Berne Union according to the rules applicable in each of them regarding the adoption of amendments to the administrative provisions of their respective Conventions.

“(3) Any amendment shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the States Members of the Organization, entitled to vote on the proposal for amendment pursuant to paragraph (2), at the time the Conference adopted the amendment. Any amendments thus accepted shall

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(i) the first step is the initiation of the proposal for amendment. This may be done in all cases by the Director General or a State party to the treaty in question. It may also be done by an organ constituted under the treaty, such as the Coordination Committee (in the case of the WIPO Convention) or the Assembly of Contracting States (in the case of, for example, the Paris Convention). The proposal must be communicated to the Contracting States six months in advance of the consideration of the proposal by the Assembly or other organ competent to adopt the amendment;

(ii) the Assembly or other organ competent to adopt the amendment must meet to consider and adopt the proposed amendment. A required majority is needed for the adoption of the amendment, which differs according to the treaty in question;

(iii) following the adoption of the amendment, written notifications of acceptance, effected in accordance with their respective constitutional processes, must be received by the Director General from three-fourths of the States that are members of the Assembly or other competent organ at the time the amendment is adopted;

(iv) following receipt of the requisite number of written notifications of acceptance, the amendment becomes binding on all States that are members of the Assembly or other competent organ at the time the amendment enters into force or that subsequently become members. There is one exception to this rule of automatic effect on all Member States: amendments that increase the financial obligations of Member States bind only those States that have notified their acceptance of the amendment.

13. Advantages of the Special Procedure. Compared to revision through a diplomatic conference, amendment pursuant to the special procedure before the Assembly or other competent organ has two advantages.

14. The first advantage is the practical ease of the procedure before the Assembly in contrast to the convening of a diplomatic conference, which generally requires substantially greater organizational, administrative and diplomatic arrangements.

15. The second and major advantage is the automatically binding effect of the amendment on all Contracting States once the requisite number of written acceptances have been received, as well as the simultaneous entry into force of the amendment for all Contracting States. In contrast, a revision of treaty adopted at a diplomatic conference binds only those States that subsequently accede to or ratify the new Act of the treaty that is adopted at the diplomatic conference. States thus become bound by the revised text at different times. In the case of the unitary contribution system, the changes in contribution classes or the policy on mandates of Directors General, the amendments could not be given practical effect if they were to apply only progressively to Member States as and when those States acceded to or ratified the revised text.

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bind all the States which are Members of the Organization at the time the amendment enters into force or which become Members at a subsequent date, provided that any amendment increasing the financial obligations of Member States shall bind only those States which have notified their acceptance of such amendment.”

## II. Unitary Contribution System and Changes in Contribution Classes

### (a) Unitary Contribution System

16. There are, at present, 19 treaties in force,<sup>4</sup> including the WIPO Convention, that are administered by WIPO.<sup>5</sup> In addition, there are three treaties that provide for administration by WIPO, but which have not yet entered into force (because the required number of ratifications or accessions has not yet been attained).

17. Of the aforementioned treaties, seven provide for the Contracting States to make contributions to finance the activities carried out under the program adopted by the Assembly or other competent organ of Contracting States constituted under the treaties. Those seven treaties (the “contribution treaties”) are the WIPO Convention, the Paris Convention for the Protection of Industrial Property (“the Paris Convention”), the Berne Convention for the Protection of Literary and Artistic Works (“the Berne Convention”), the Strasbourg Agreement Concerning the International Patent Classification (“the Strasbourg Agreement”), the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (“the Nice Agreement”), the Locarno Agreement Establishing an International Classification for Industrial Designs (“the Locarno Agreement”) and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (“the Vienna Agreement”).

18. Annex II contains a list of the treaties administered by WIPO classified according to whether they make provision for contributions by Member States.

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<sup>4</sup> The Trademark Registration Treaty (TRT) and the Treaty on the International Registration of Audiovisual Works (“Film Register Treaty” (FRT)) are not included in this number. The TRT entered into force on August 7, 1980, as the result of the deposit of the instruments of accession of Burkina Faso, Congo, Gabon, the [former] Soviet Union and Togo. Only those five States have joined the TRT Union. The Assembly of the TRT Union decided on October 2, 1991, with effect on the same date to “freeze” the TRT (document TRT/A/VII/1). The FRT entered into force on February 27, 1991. On May 13, 1993, the FRT Assembly decided that the application of the FRT be suspended (document FRT/A/III/3). There are 13 States party to the FRT (Argentina, Austria, Brazil, Burkina Faso, Chile, Colombia, Czech Republic, France, Hungary, Mexico, Peru, Senegal, Slovakia).

<sup>5</sup> The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention) is administered jointly by WIPO, the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) (see Article 32 of the Convention). The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (the Geneva Convention) is administered by WIPO in cooperation with UNESCO and ILO (see Article 8(3)), but does not provide for any administrative organ of the Contracting States. The Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (the Brussels Convention) provides for the depositary to be the Secretary General of the United Nations (Article 9) and also contains no provision for an administrative organ of the Contracting States.

19. The system of contributions provided for in the seven contribution treaties operates in the following way:

(i) if a State is party only to the WIPO Convention and not to any of the other six contribution treaties, it pays a contribution under the WIPO Convention (Article 11(3)(b)(i) of the WIPO Convention);

(ii) if a State is party to the WIPO Convention and to one or more of the other six contribution treaties, it does not pay any contribution under the WIPO Convention, but pays a separate contribution under each of the other six contribution treaties to which it is party (Article 11(3)(b)(i) of the WIPO Convention, Article 16(3) and (4) of the Paris Convention, Article 25(3) and (4) of the Berne Convention, Article 9(3) and (4) of the Strasbourg Agreement, Article 7(3) and (4) of the Nice Agreement, Article 7(3) and (4) of the Locarno Agreement and Article 9(3) and (4) of the Vienna Agreement). In other words, if a State is party to each of the seven contribution treaties, it is required, under the provisions of those treaties, to pay six separate contributions reflecting its share in the expenses of each of the Unions constituted under the Paris Convention, the Berne Convention, the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement.

20. In 1993 a simplification in the contribution system was proposed (see document AB/XXIV/5). As a result of that simplification, the unitary contribution system was introduced, whereby it was agreed that a State party to any of the seven contribution treaties would pay a single contribution, regardless of the number of such treaties to which it was party (see documents AB/XXIV/5, paragraphs 35, 38, 39, 49 and 50 and AB/XXIV/18, paragraph 180).

21. The reasons for the adoption of the unitary contribution system were the perceived disadvantages in the multiple contribution system, notably that:

(i) it was unnecessarily complicated in requiring Member States to distinguish between, and effectuate, payments to the Organization on several accounts and in requiring the maintenance of separate budgets for each contribution treaty, as well as the apportionment of "common expenses" between such treaties (see, generally, document AB/XXIV/5, paragraph 24); and

(ii) it discouraged adherence to more than one of the seven contribution treaties, which discouragement was best reflected, in particular, in the low number of Contracting States to the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement compared to the actual number of States that used the classifications established under those treaties (see, generally, document AB/XXIV/5, paragraph 26).

22. The unitary contribution system, while introduced in practice, is not, however, reflected in the provisions of the seven contribution treaties. When adopted in 1993, it was adopted *on a provisional basis* on the understanding that, if the experience of the 1994-95 and 1996-97 bienniums proved to be satisfactory, the treaties in question would, as soon as possible, be amended accordingly (see document AB/XXIV/5, paragraphs 35 and 38).

23. Review of Operation of the Unitary Contribution System

The experience of the unitary contribution system over the 1994-95 and 1996-97 bienniums has been positive. In the first place, the number and rate of adherences to the contribution treaties has increased considerably over those four years compared to the preceding four years, particularly in respect of the four contribution treaties dealing with international industrial property classification systems, as indicated in the following table:

Table 1

Adherences to WIPO Contribution Treaties

Treaty	No. of Contracting States Dec. 1989	No. of New Adherences 1990-93	No. of Contracting States Dec. 1993	No. of New Adherences 1994-97	No. of Contracting States Dec. 1997
WIPO Convention	126	17 (+ 13.5%)	143	23 (+ 16.1%)	166
Paris Convention	100	17 (+ 17%)	117	26 (+ 22.2%)	143
Berne Convention	84	21 (+ 25%)	105	23 (+ 21.9%)	128
Strasbourg Agreement	27	0 (—)	27	12 (+ 44.4%)	39
Nice Agreement	34	4 (+ 11.8%)	38	14 (+ 36.8%)	52
Locarno Agreement	15	6 (+ 40%)	21	9 (+ 42.8%)	30
Vienna Agreement	5	0 (—)	5	6 (+ 120%)	11

The increase indicated above<sup>6</sup> cannot be causally attributed solely to the introduction of the unitary contribution system. Other factors, such as the more widespread perception of the

<sup>6</sup> This trend continued in 1998, during which year the following adherences to the WIPO contribution treaties occurred:

- WIPO Convention – 5 adherences (3% increase)
- Paris Convention – 8 adherences (5.6% increase)
- Berne Convention – 5 adherences (3.9% increase)
- Strasbourg Agreement – 4 adherences (10.2% increase)
- Nice Agreement – 6 adherences (11.5% increase)
- Locarno Agreement – 5 adherences (16.6% increase)

importance of intellectual property, have no doubt also been influential. However, it would be reasonable to consider that the unitary contribution system has had an effect on increased adherences that is both positive and strong.

24. In addition to the positive effect on adherences, the unitary contribution system has proven to be simpler to administer both for the Secretariat and for States. It has simplified also the task of the Secretariat in explaining the financial implications of adhering to WIPO treaties to States that are not yet party to some or all of those treaties.

25. It should be mentioned that a very small number of States find that the unitary contribution system entails a slight complication insofar as contributions by them to the Paris Union and other industrial property unions, on the one hand, and to the Berne Union, on the other hand, are handled administratively and paid, within their governments, by different ministries. For these few States, the Secretariat has provided details of the breakdown of the unitary contribution due into separate components, detailing those parts represented by the shares of the Paris Union and other industrial property unions and of the Berne Union. This difficulty has been able to be resolved in this way for these few States.

(b) Changes in Contribution Classes

26. The Treaty Provisions. For the purpose of determining the contribution payable by a Contracting State, the WIPO Convention establishes the following three classes and attributes the following units to each class:

–	Class A	10
–	Class B	3
–	Class C	1

Each Contracting State may choose the class to which it wishes to belong. The annual contribution of each such State is then determined as an amount in the same proportion to the total sum to be contributed to the budget of the WIPO Conference by all Contracting States as the number of its units is to the total of the units of all Contracting States.<sup>7</sup>

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Vienna Agreement – 2 adherences (18.2% increase).

<sup>7</sup> See Article 11(4) of the WIPO Convention, which reads, in its material part, as follows:

“(a) For the purpose of establishing its contribution towards the budget of the Conference, each State party to this Convention not member of any of the Unions shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class A	10
Class B	3
Class C	1

“(b) Each such State shall, concurrently with taking action as provided in Article 14(1), indicate the class to which it wishes to belong. Any such State may change class. If it chooses a lower class, the State must announce it to the Conference at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

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27. A similar system is provided for in the Paris Convention and the Berne Convention, whose provisions in this regard are substantially identical to the provisions of the WIPO Convention, except that they provide for seven classes instead of three.<sup>8</sup> The seven classes are as follows:

–	Class I	25
–	Class II	20
–	Class III	15
–	Class IV	10
–	Class V	5
–	Class VI	3
–	Class VII	1

28. The four other contribution treaties (the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement) all provide for the same system of contribution classes as the means of determining each Contracting State's share of the corresponding budget and, consequently, each Contracting State's annual contribution. However, each of those four contribution treaties applies to each of its Contracting States the same class as the Contracting State has chosen for the Paris Convention (the treaties are special agreements under Article 19 of the Paris Convention and membership of the Paris Union is a condition of becoming party to any of the treaties). In other words, the contribution classes established under the Paris Convention apply to each of those treaties and the choice

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“(c) The annual contribution of each such State shall be an amount in the same proportion to the total sum to be contributed to the budget of the Conference by all such States as the number of its units is to the total of the units of all the said States.”

<sup>8</sup> Article 16(4) of the Paris Convention and Article 25(4) of the Berne Convention read, in their material parts, as follows:

“(a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3
Class VII	1

“(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

“(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the annual budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.”

of contribution class made by a Contracting State under the Paris Convention applies automatically to that Contracting State under each of those treaties to which it is party.<sup>9</sup>

29. The system for determining a Contracting State's annual contributions under the contribution treaties *that is provided for in the provisions of those treaties* may thus be summarized as follows:

(i) where a State is party only to the WIPO Convention, it pays a single contribution that is determined by reference to one of three classes which the State is free to choose;

(ii) where a State is party to any of the other six contribution treaties (the Paris Convention, the Berne Convention, the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement), it does not pay any contribution under the WIPO Convention if it is party to that Convention, but it pays a separate contribution for each of the other contribution treaties to which it is party. In the case of the Paris Convention and the Berne Convention, the contributions are determined by reference to one of seven classes that it is free to choose (it may choose different classes for each, or the same classes). In the case of the other four contribution treaties, its contribution is determined by reference to the class that it has chosen under the Paris Convention.

30. 1989 Modifications. In September 1989 the WIPO Conference and the Assemblies of the Paris and Berne Unions considered a number of proposals to modify the contribution classes established under the WIPO Convention, the Paris Convention and the Berne Convention, respectively (see document AB/XX/5). The proposals were made in an endeavor to introduce a more equitable sharing of the burden of contributions, in particular, through the introduction of new classes which would allow for the payment of a lower level of contributions by developing countries.

31. Following consideration of the proposals, the WIPO Conference and the Assemblies of the Paris and Berne Unions:

“(i) decided to institute a new contribution class with 1/8 (one-eighth) of a unit; this class shall be applied to countries which, according to the practice of the United Nations, are considered to be least developed countries; *the said measure is a provisional measure, applicable from January 1, 1990, until a corresponding amendment of the WIPO, Paris and Berne Conventions will enter into effect,*

“(ii) decided to set up a WIPO Working Group on Contributions, consisting of nine States, to propose solutions on all the other questions treated in document AB/XX/5; the Working Group, which will be convened in one or more sessions, shall report to the ordinary sessions of 1991 of the Governing Bodies.”  
(document AB/XX/20, paragraph 117, emphasis added).

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<sup>9</sup> See Article 9(4) of the Strasbourg Agreement, Article 7(4) of the Nice Agreement, Article 7(4) of the Locarno Agreement and Article 9(4) of the Vienna Agreement.

32. The result of the foregoing decisions was that the contribution classes applicable under the WIPO Convention were as follows:

–	Class A	10	
–	Class B	3	
–	Class C	1	
–	Class S	1/8	Automatically applied to least developed countries.

Subject to the indication given opposite Class S, each State was free to choose its contribution class.

33. The further result of the 1989 decisions was that the contribution classes applicable under the Paris Convention (and, by automatic effect, under the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement) and the Berne Convention were as follows:

–	Class I	25	
–	Class II	20	
–	Class III	15	
–	Class IV	10	
–	Class V	5	
–	Class VI	3	
–	Class VII	1	
–	Class S	1/8	Automatically applied to least developed countries.

Similarly, subject to the indication opposite Class S, each State was free to choose its contribution class.

34. 1991 Modifications. In accordance with the 1989 decisions mentioned above, the WIPO Working Group on Contributions was convened and duly reported to the September 1991 meeting of the Governing Bodies (see document AB/XXII/6). Following consideration of the issues, the WIPO Conference and the Assemblies of the Paris and Berne Unions decided to introduce two further contribution classes between the then prevailing lowest and second-lowest classes, as follows:

“(i) Class VIII [for the Paris and Berne Conventions] and Class D [for the WIPO Convention] (1/2 unit) to developing countries having contributions under the United Nations scale of assessment of between 0.02% and 0.10%, unless they request to be placed in a higher class;

“(ii) Class IX [for the Paris and Berne Conventions] and Class E [for the WIPO Convention] (1/4 unit) to developing countries, other than least developed countries, having contributions under the United Nations scale of assessment of 0.01%, unless they request to be placed in a higher class.”

(documents AB/XXII/6, paragraph 1.40 and AB/XXII/22, paragraph 116).

Again, the introduction of the new contribution classes was expressed to be “a provisional measure, applicable from January 1, 1992, until a corresponding amendment of the WIPO, Paris and Berne Conventions will enter into effect” (documents AB/XXII/6, paragraphs 1.40 and 1.49, and AB/XXII/22, paragraph 116).

35. In consequence of the 1991 amendments, the contribution classes applicable under the WIPO Convention were as follows:

–	Class A	10	
–	Class B	3	
–	Class C	1	
–	Class D	1/2	Applicable to developing countries having contributions under the United Nations scale of assessment of between 0.02% and 0.10%, unless they request to be placed in a higher class.
–	Class E	1/4	Applicable to developing countries, other than least developed countries, having contributions under the United Nations scale of assessment of 0.01%, unless they request to be placed in a higher class.
–	Class S	1/8	Automatically applied to least developed countries.

Subject to the indications given opposite Classes D, E and S, above, each State was free to choose its contribution class.

36. Likewise, in consequence of the 1991 amendments, the contribution classes applicable under the Paris Convention (and, by automatic effect, under the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement) and the Berne Convention were as follows:

–	Class I	25	
–	Class II	20	
–	Class III	15	
–	Class IV	10	
–	Class V	5	
–	Class VI	3	
–	Class VII	1	
–	Class VIII	1/2	Applicable to developing countries having contributions under the United Nations scale of assessment of between 0.02% and 0.10%, unless they request to be placed in a higher class.
–	Class IX	1/4	Applicable to developing countries, other than least developed countries, having contributions under the United Nations scale of assessment of 0.01%, unless they request to be placed in a higher class.
–	Class S	1/8	Automatically applied to least developed countries.

Subject to the indications opposite Classes VIII, IX and S, each State was free to choose its contribution class.

37. 1993 Modifications. The introduction of the unitary contribution system (paragraphs 16 to 25, above) necessitated further revision of the contribution classes. The further revisions were considered necessary since it was believed that the unitary contribution system would be politically acceptable to the Member States only if each State paid, under the unitary contribution system, an amount which was the same as or less than the amount it was required to pay under the multiple contribution system (see, generally, document AB/XXIV/5, paragraphs 30 to 34). It may be observed, in addition, that a result whereby each State paid

the same or less under the unitary contribution system as it was paying under the multiple contribution system had the legal advantage that the eventual amendments to the contribution treaties would not increase the financial obligations of Member States. Thus, under the procedure for entry into force of treaty amendments effected through the special procedure before the Assembly or other competent organ, the automatically binding effect on all Member States of the amendments could be assured through written acceptances from three-fourths of the Contracting States. (If the amendments increased the financial obligations of Member States, they would bind only those States which had notified their acceptance.<sup>10</sup>)

38. In order to achieve the result that each State paid the same or a lesser amount under the unitary contribution system, it was proposed:

(i) to create four new classes of contribution under the Paris Convention (and, in consequence, under the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement) and the Berne Convention. The new classes consisted of two new intermediary classes (Classes *IVbis* and *VIbis*) and two new classes at the lowest end (Classes *Sbis* and *Ster*);

(ii) to re-assign States within the new range of classes under the Paris and Berne Conventions, as well as to re-align the value (number of units) within the existing range of classes under the WIPO Convention and to re-assign States within those classes (see document AB/XXIV/5, paragraphs 30 to 39 and 43 to 50).

39. The above-mentioned proposals were adopted by the concerned Assemblies of Member States in September 1993 (document AB/XXIV/18).

40. In consequence of the 1993 modifications, the same number of contribution classes were applicable under the WIPO Convention as after the 1991 modifications (see paragraph 35, above). However, the "value" of those classes (that is, the number of units attributed to each) was re-aligned for the purposes of the unitary contribution system and certain States were re-assigned to different classes.

41. The 1993 modifications, however, resulted in the following new range of contribution classes being applicable under the Paris Convention (and, thus, the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement) and the Berne Convention, as well as the re-alignment of States within those classes:

–	Class I	25
–	Class II	20
–	Class III	15
–	Class IV	10
–	Class <i>IVbis</i>	7.5
–	Class V	5
–	Class VI	3
–	Class <i>VIbis</i>	2
–	Class VII	1

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<sup>10</sup> See, for example, Article 17(3) of the WIPO Convention and paragraph 12(iv), above.

–	Class VIII	1/2	
–	Class IX	1/4	
–	Class S	1/8	Applicable to developing countries having contributions under the United Nations scale of assessment between 0.02% and 0.10%.
–	Class <i>Sbis</i>	1/16	Applicable to developing countries, other than least developed countries, having contributions under the United Nations scale of assessment of 0.01%.
–	Class <i>Ster</i>	1/32	Applicable to least developed countries having contributions under the United Nations scale of assessment of 0.01%.

42. Experience of 1993 System. The modifications that were introduced to the contribution classes in 1989, 1991 and 1993 were all introduced on the expectation that, if the modifications proved to work satisfactorily in practice, the provisions of the contribution treaties would be amended to reflect the new practices.

43. As mentioned above, the general objective of the modifications was to introduce a more equitable sharing of the burden of contributions, particularly by lowering the relative share of contributions payable by developing countries, thereby bringing the determination of shares in total contributions payable to WIPO into alignment with prevailing practices in the United Nations and other organizations of the United Nations system.

44. The modifications to contribution classes appear to have introduced a more equitable system. The ratio between the highest and lowest contributions, which was 200 : 1 (that is, the amount of the highest contribution class was 200 times the amount of the lowest class) prior to 1994, became 800 : 1, which approximates more closely the ratio prevailing in other organizations of the United Nations system.

45. The new contribution classes seem to be more in line with the economic capacity of the developing countries to pay. This is evidenced by a significant decline in the rate of increase in arrears in contributions, as indicated in the Table in Annex III. In summary, the rate of increase in arrears in contributions in one biennium compared to the previous biennium has declined as follows:

Table 2

Rates of Increase in Arrears in Contributions  
Compared to the Preceding Biennium

Biennium Ending	Rate of Increase in Arrears in Contributions Compared to Preceding Biennium
1987	35.8%
1989	19.2%
1991 (introduction of Class S for LDCs)	8.85%
1993 (introduction of Classes VIII (D) and IX (E))	6.2%
1995 (introduction of Classes <i>Sbis</i> and <i>Ster</i> )	3.2%
1997	4.1%

(c) Further Action Invited

46. The introduction of the unitary contribution system was linked inextricably to the further (1993) modifications that were made to the contribution classes. It would seem essential, therefore, that the further step of amending the concerned WIPO treaties deal with both the unitary contribution system and the contribution classes.

47. As indicated above, experience with the unitary contribution system and the new contribution classes has been positive. The Contracting States to the contribution treaties must now consider whether they wish to proceed to formalizing the new practices by amendment of those treaties through the special procedure of amendment by the Assemblies or other competent organs of Contracting States. Specifically, formalizing the new practices would require the amendment of the following treaty provisions:

Article 11 (Finances), WIPO Convention  
Article 16 (Finances), Paris Convention  
Article 25 (Finances), Berne Convention  
Article 9 (Finances), Strasbourg Agreement  
Article 7 (Finances), Nice Agreement  
Article 7 (Finances), Locarno Agreement  
Article 9 (Finances), Vienna Agreement.

48. It should be mentioned that the amendment of the abovementioned provisions will not, unfortunately, produce a comprehensive legal solution to the constitutional formalization of the unitary contribution system and changes in contribution classes. The abovementioned provisions are those that are contained in the latest Act of each of the treaties in question. In

the case of the WIPO Convention, the Strasbourg Agreement, the Locarno Agreement and the Vienna Agreement, the latest Act is also the only Act of those treaties and was concluded after the 1967 Stockholm Diplomatic Conference. It is recalled that that Conference introduced the Assembly as the constituent organ of Contracting States in WIPO treaties and conferred various powers on the Assembly, including the power to amend the administrative provisions of the treaties.<sup>11</sup> In the case of the Paris Convention, the Berne Convention and the Nice Agreement, however, Acts of those treaties exist which pre-date the reforms introduced at the 1967 Stockholm Diplomatic Conference. The pre-1967 Acts provide for a Conference of Representatives as the constituent organ of Contracting States, but this Conference has no power to amend the treaty provisions.

49. There are three States party to pre-1967 Acts of the Paris Convention, namely, Dominican Republic (The Hague (1925) Act), Nigeria (Lisbon (1958) Act) and the Syrian Arab Republic (London (1934) Act). There are three States party to pre-1967 Acts of the Berne Convention, namely, Lebanon (Rome (1928) Act), Madagascar (Brussels (1948) Act) and New Zealand (Rome (1928) Act). There are two States party to pre-1967 Acts of the Nice Agreement, namely, Lebanon (Nice (1957) Act) and Tunisia (Nice (1957) Act). These States, for as long as they do not accede to the latest Acts of the concerned contribution treaties, will remain bound by Acts of the treaties containing provisions relating to contributions and classes which will not be in conformity with the new practices of the unitary contribution system and contribution classes. Although regrettable from the point of view of strict legal theory, this anomaly will not have any practical significance, especially as the States concerned, meeting in the Conferences of Representatives of the Paris, Berne and Nice Unions, approved the adoption of the unitary contribution system and the new contribution classes in 1993 (document AB/XXIV/18, paragraph 180). Furthermore, it may be expected that, in the course of time, this anomaly will disappear as the States concerned accede to the latest Acts of the treaties in question.

*50. The WIPO Conference, the Assemblies of the Paris, Berne, IPC (Strasbourg), Nice, Locarno and Vienna Unions are invited to decide whether to request the Director General to initiate the procedures for amendment of the WIPO Convention, the Paris Convention, the Berne Convention, the Strasbourg Agreement, the Nice Agreement, the Locarno Agreement and the Vienna Agreement, through the procedure for amendment by the WIPO Conference and the concerned Assemblies, in order to formalize the unitary contribution system adopted in 1993 and the new contribution classes adopted in 1989, 1991 and 1993.*

### III. Policy on Mandates of Directors General

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<sup>11</sup> See, generally, document A/32/INF/2.

51. At its extraordinary session in March 1998, the WIPO Coordination Committee established a Working Group on Policies and Practices for the Nomination and Appointment of Directors General. The Working Group held its first session from May 6 to 8, 1998, and its second and final session on July 2 and 3, 1998.

52. At its second session, the Working Group decided to recommend to the WIPO Coordination Committee the adoption of a policy limiting the number of mandates that may be served by Directors General of WIPO to two mandates of six years each. The Working Group decided further to recommend that this policy be reflected in an amendment to the WIPO Convention (it being recalled that Article 9(3) of the WIPO Convention<sup>12</sup> contains provisions dealing with the appointment of Directors General) (see document WG/CC/WG-DG/2/3, paragraph 22).

53. The recommendations of the Working Group were considered and adopted by the WIPO Coordination Committee at its meeting in September 1998 (see document WO/CC/42/3, paragraph 8). As noted above, the recommendations were in turn adopted by the WIPO General Assembly at its meeting in September 1998 (see document WO/GA/23/7, paragraph 22) and the WIPO General Assembly decided that the WIPO Convention should be amended as soon as possible to reflect those recommendations.

54. The Assemblies of the Paris and Berne Unions and the WIPO Conference will consider, at their meetings in September 1999, a proposal for the amendment of Article 9(3) of the WIPO Convention.

#### IV. Simplification of the Structure of Assemblies and Conferences of Member States

55. As explained in the document entitled "The Governance Structure of WIPO" (document A/32/INF/2) that was submitted to the Assemblies of the Member States at their meetings in March 1998, WIPO is a constitutionally complex organization. That complexity results from the historical evolution of the Organization, which has seen the progressive addition of new treaties, each usually establishing a legally separate Union of States, with its own administrative organ and, frequently, budget.

56. In consequence, there are now 21<sup>13</sup> Assemblies and other bodies of the Member States of WIPO and of the Unions administered by WIPO, namely:

- (1) WIPO General Assembly
- (2) WIPO Conference
- (3) WIPO Coordination Committee

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<sup>12</sup> Article 9(3) of the WIPO Convention provides as follows:

"The Director General shall be appointed for a fixed term, which shall be not less than six years. He shall be eligible for reappointment for fixed terms. The periods of the initial appointment and possible subsequent appointments, as well as all other conditions of the appointment, shall be fixed by the General Assembly."

<sup>13</sup> The Assemblies of the TRT Union and the FRT Union are not included in this number; see footnote 4, above.

- (4) Paris Union Assembly
- (5) Paris Union Conference of Representatives
- (6) Paris Union Executive Committee
  
- (7) Berne Union Assembly
- (8) Berne Union Conference of Representatives
- (9) Berne Union Executive Committee
  
- (10) Madrid Union Assembly
  
- (11) Hague Union Assembly
- (12) Hague Union Conference of Representatives
  
- (13) Nice Union Assembly
- (14) Nice Union Conference of Representatives
  
- (15) Lisbon Union Assembly
- (16) Lisbon Union Council
  
- (17) Locarno Union Assembly
  
- (18) IPC [International Patent Classification] Union Assembly
  
- (19) PCT [Patent Cooperation Treaty] Union Assembly
  
- (20) Budapest Union Assembly
  
- (21) Vienna Union Assembly

57. In addition, the PCT provides in Article 54 for the establishment, by the Assembly of the PCT Union, of an Executive Committee which has not, however, been established so far. The rules governing this Executive Committee are, generally speaking, the same as those governing the Executive Committees of the Paris and Berne Unions.

58. The existence of the aforementioned 21 bodies complicates the administration of the Organization in the following ways:

(i) at each ordinary session of each body (usually, every two years), the body must elect new officers, a requirement that, experience indicates, usually consumes valuable time at the meetings of the Member States that might otherwise be devoted to discussions on substantive matters. Separate series of documents and reports must be provided for each body;

(ii) the system is not easy to understand, especially for new delegates responsible for following WIPO activities and meetings;

(iii) while a unitary contribution system, and in consequence, a unitary budget has been introduced in practice for the contribution-financed Unions, separate budgets are still maintained for the PCT Union, the Madrid Union and the Hague Union.

59. Given that the machinery for amendment of the administrative provisions of WIPO treaties needs to be activated in order to implement the unitary contribution system, changes in contribution classes and a policy on mandates of Directors General of WIPO, Member States may wish, at the same time, to consider available options for simplifying the number and operation of the 21 Assemblies and other bodies mentioned in paragraph 56, above.

60. In general, two such options appear possible. The first option would consist of streamlining the 21 bodies by abolishing those bodies that, in practice, are not functioning as originally intended insofar as they do not consider and decide upon any items of substantive business. The second option envisages a more radical re-organization of the structure of governing bodies through the transfer of decision-making authority for all treaties to a single organ, the WIPO General Assembly, with the retention of the WIPO Coordination Committee as the only other organ of Member States established at the treaty level.

(a) Option I: Streamlining the Twenty-One Governing Bodies

61. The constitutional structure of WIPO and the Unions administered by WIPO established at the 1967 Stockholm Diplomatic Conference is based, in general, on the existence of one constituent organ—the Assembly—of Contracting States for each of the WIPO treaties. As can be seen from the list of 21 governing bodies set out in paragraph 56, above, however, there are three sets of exceptions to this general principle:

(i) in the case of the WIPO Convention, there are, in addition to the Assembly of Contracting States (the WIPO General Assembly), two other constituent organs of Contracting States, namely, the WIPO Conference and the WIPO Coordination Committee;

(ii) in the case of the Paris Convention, the Berne Convention and the Patent Cooperation Treaty (PCT), in addition to the Assemblies of the Paris Union and the Berne Union constituted under those Conventions, there is provision for Executive Committees of each Union;

(iii) in the case of those treaties having Acts concluded before the 1967 Stockholm Diplomatic Conference, there are, in addition to the Assemblies of the Contracting States, conferences of representatives comprising those States party to the treaties in question that have not acceded to the Stockholm (or later) Acts of the treaties in question. The treaties for which such conferences of representatives exist are the Paris Convention, the Berne Convention, the Hague Agreement Concerning the International Deposit of Industrial Designs (“the Hague Agreement”), the Nice Agreement and (under the name of the Council) the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (“the Lisbon Agreement”).

62. In the interest of simplifying the governance structure of WIPO, the Member States may wish to give consideration to the discontinuance of certain of the foregoing organs that are additional to the Assemblies of Contracting States. The ensuing paragraphs examine the functions of those organs and the options that exist for discontinuing their existence.

63. The WIPO Conference. The World Intellectual Property Organization was established following the 1967 Stockholm Diplomatic Conference. Prior to that Conference, the “organization” consisted of a series of separate Unions of States constituted under six treaties, namely, the Paris Convention, the Berne Convention, the Madrid Agreement Concerning the International Registration of Marks (“the Madrid Agreement”), the Hague Agreement, the Nice Agreement and the Lisbon Agreement. The administrative linkage between the treaties and the Unions that they established was assured through a common secretariat, the United International Bureaux for the Protection of Intellectual Property (BIRPI).

64. The proposal for the establishment of the World Intellectual Property Organization that was submitted to and, ultimately, adopted by the Stockholm Diplomatic Conference was made on the basis that the new organization would serve two main purposes:

“(i) to constitute the framework of a coordinated administration for the various intellectual property Unions...;

“(ii) to constitute the framework for the general promotion of the protection of intellectual property, on a world-wide basis, that is, also for and in the States which are not yet members of any of the existing intellectual property Unions.”<sup>14</sup>

65. In order to reflect these two purposes, it was proposed to create two classes of members of the new organization—“full” members, being States members of the organization that were also a member of one or more of the Unions, and “associate” members, being States members of the organization that were not members of any of the Unions.<sup>15</sup>

66. In a similar vein, it was proposed to establish two separate organs of the Member States of the new organization. The first was to be a General Assembly, which would be constituted by the full members. The second was to be a Conference, which would be constituted by the full members and the associate members. This dual structure was intended to reflect the two main purposes of the new organization (paragraph 64, above) and the two separate classes of members (paragraph 65, above):

“(i) as a framework for administrative coordination and cooperation among the Unions, the Organization would mainly act through its General Assembly [and its Coordination Committee, two] organ[s] which would be constituted by members of the Unions only (the “Full” Members);

“(ii) as a framework for spreading the protection of intellectual property rights throughout the world, the Organization would act through its Conference, an organ constituted both by States members of the Unions and States not yet members of any of the Unions (the “Associate” Members).”<sup>16</sup>

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<sup>14</sup> Preparatory Document 5/10, “Proposals for Establishing the Organization (“IPO Convention”),” *Records of Intellectual Property Conference of Stockholm (1967)*, Volume I, 494.

<sup>15</sup> *Ibid.* 495

<sup>16</sup> *Ibid.*

67. At the Stockholm Diplomatic Conference, the proposal for two classes of members of the new organization was abandoned.<sup>17</sup> Nevertheless, in spite of opposition from a number of delegations, the proposal to have two separate organs of Member States, with differing compositions,—the General Assembly and the Conference—was retained.<sup>18</sup> The different intended functions of the two organs was reflected in Article 6(2) (“General Assembly”)<sup>19</sup> and Article 7(2) (“Conference”)<sup>20</sup> of the WIPO Convention as adopted.

68. In practice, since 1967 and the adoption of the WIPO Convention, the Organization has taken a different course from that envisaged in the structural division between the General Assembly and the Conference. In particular,

(i) the States that are members only of WIPO and not members of any of the Unions tend to constitute a small category. It is small when considered as a part of the whole number of Member States of WIPO (at present, there are 14 States members of WIPO alone as compared with 157 States members of both WIPO and one or more of the Unions

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<sup>17</sup> “Report on the Work of Main Committee V (World Intellectual Property Organization)”, *Records of Intellectual Property Conference of Stockholm (1967)*, Volume II, 1226-1227.

<sup>18</sup> *Ibid.* 1227

<sup>19</sup> Article 6(2) reads as follows:

“The General Assembly shall:

- (i) appoint the Director General upon nomination by the Coordination Committee;
- (ii) review and approve reports of the Director General concerning the Organization and give him all necessary instructions;
- (iii) review and approve the reports and activities of the Coordination Committee and give instructions to such Committee;
- (iv) adopt the biennial budget of expenses common to the Unions;
- (v) approve the measures proposed by the Director General concerning the administration of the international agreements referred to in Article 4(iii);
- (vi) adopt the financial regulations of the Organization;
- (vii) determine the working languages of the Secretariat, taking into consideration the practice of the United Nations;
- (viii) invite States referred to under Article 5(2)(ii) to become party to this Convention;
- (ix) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (x) exercise such other functions as are appropriate under this Convention.”

<sup>20</sup> Article 7(2) reads as follows:

“The Conference shall:

- (i) discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions;
- (ii) adopt the biennial budget of the Conference;
- (iii) within the limits of the budget of the Conference, establish the biennial program of legal-technical assistance;
- (iv) adopt amendments to this Convention as provided in Article 17;
- (v) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (vi) exercise such other functions as are appropriate under this Convention.”

administered by WIPO). The small number of States that are members only of WIPO makes it unlikely that any decision of the Conference would be different from a decision on the same subject matter of the General Assembly and thus places in doubt the practical utility of maintaining the Conference as a separate organ. The category of States members only of WIPO is also a temporary category because, as a general rule, States newly coming into the Organization tend to commence their participation as members of WIPO and, in the course of time, to become members of one or more of the Unions administered by WIPO;

(ii) in practice, the Conference never meets separately from the General Assembly. It meets during the same period and in the same room as the General Assembly and the only ostensible difference in the proceedings is the difference in presiding officer;

(iii) in practice also, the Conference has considered very few separate items of business. Usually, the items on which it deliberates are considered at the same time by the Assemblies of the various Unions (for example, the adoption of the program and budget) when, under the WIPO General Rules of Procedure (see Rule 42, "Joint Meetings"), the meeting is presided over by the Chair of the General Assembly. Since 1973, the Conference has met separately, presided over by the Chair of the Conference, on five occasions only (in 1981, 1987, 1993, 1995 and 1997). On each occasion, the Conference considered the same item of business, namely, the reports of the Permanent Committee Related to Industrial Property and of the Permanent Committee Related to Copyright and Neighboring Rights. Thus, the functional division of work originally envisaged between the General Assembly and the Conference has never eventuated in practice.

69. In view of the likelihood of an exercise to amend the WIPO Convention, it may be timely for the Member States to consider whether it is necessary to retain the Conference as a separate organ. If the Member States did consider it to be appropriate to abolish the Conference, the following main changes to the WIPO Convention would need to be made:

(i) the deletion of Article 7 ("Conference");

(ii) the modification of Article 6 ("General Assembly"), in particular, through a modification of the membership of the General Assembly (Article 6(1)) which would become constituted by all States members of WIPO, whether or not they were members of any of the Unions, and through a modification of the functions of the General Assembly (Article 6(2)) by the attribution to the General Assembly of those functions previously attributed only to the Conference.

70. The only inconvenience involved in abolishing the Conference would be the somewhat theoretical inconvenience of giving to certain States that were members of WIPO, but not members of any of the Unions, a vote on those questions that fall within the competence of the General Assembly and that concern only the Unions. These are generally questions of coordination between the Unions, for example, the adoption of the biennial budget of expenses common to the Unions (Article 6(2)(iv) of the WIPO Convention). Since the States members only of WIPO constitute a temporary and minority class of States, the possibility of their exercising votes in a manner detrimental to the interests of the States members of the Unions is entirely theoretical.

71. *The WIPO Conference is invited to decide whether to request the Director General to initiate a process to examine whether to amend the WIPO Convention by abolishing the WIPO Conference.*

72. The Executive Committees of the Paris Union, the Berne Union and the PCT Union. The Executive Committee of the Paris Union was originally created by resolution of the Conference of Representatives of the Paris Union (the predecessor of the Assembly of the Paris Union), which was established under Article 14(5)(a) of the Lisbon (1958) Act of the Paris Convention.<sup>21</sup> At the 1967 Stockholm Diplomatic Conference, it was proposed and decided to give the Executive Committee a statutory basis. Article 14 of the Stockholm (1967) Act of the Paris Convention provides for the establishment of the Executive Committee.

73. Prior to the Stockholm (1967) Act of the Berne Convention, there was no Executive Committee of the Berne Union. There was, however, a twelve-member Committee, which later came to be known as the “Permanent Committee,” which was created by a resolution of the 1948 Brussels Revision Conference of the Berne Convention.<sup>22</sup> For reasons similar to those which motivated the establishment of the Executive Committee of the Paris Union (see below), and out of a desire for symmetry in governance structures of the Paris and Berne Conventions, it was proposed and decided at the 1967 Stockholm Diplomatic Conference to establish an Executive Committee of the Berne Union. Article 23 of the Stockholm (1967) Act and of the Paris (1971) Act of the Berne Convention provide for the establishment of the Executive Committee.

74. The Executive Committee of the PCT Union is governed by Articles 53(9) and 54 of the PCT. It appears that the main reason for envisaging such an Executive Committee was to replicate the governance structure established with respect to the Paris and Berne Conventions.<sup>23</sup> Article 53(9) of the PCT provides for the Executive Committee of the PCT Union to be established by the Assembly of the PCT Union when the number of Contracting States to the PCT exceeds 40. Although there are, at present, 102 Contracting States to the PCT, the Assembly has never established the Executive Committee. In 1985, when the number of Contracting States to the PCT was 39, the PCT Assembly considered whether it should establish the Executive Committee. The Assembly decided at that time “to postpone any decision concerning the establishment of the Executive Committee until any State member of the PCT Union or the Director General proposed that the matter be reconsidered” (document PCT/A/XIII/3, paragraph 11(v); see also document PCT/A/XIII/1, paragraphs 17 to 21).

75. The reasons for the establishment of the Executive Committee of the Paris and Berne Unions seem to have been the perceived need for a body of a lesser number of Member States than the Assembly in order to consider matters which were urgent in nature, and thus could not await the next ordinary session of the Assembly, or which were of lesser importance and

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<sup>21</sup> See *Records of the Intellectual Property Conference of Stockholm (1967)*, Volume I, 195.

<sup>22</sup> *Ibid.* 427.

<sup>23</sup> See *Records of the Washington Diplomatic Conference on the Patent Cooperation Treaty 1970*, 615, paragraph 2188.

did not require attention by the Assembly.<sup>24</sup> These reasons were reflected in the proposed periodicity of ordinary sessions of the Executive Committees compared to that of the ordinary sessions of the Assemblies. The Executive Committees are to meet once a year in ordinary session (Article 14(7)(a) of the Paris Convention and Article 23(7)(a) of the Berne Convention). In contrast, the 1967 Stockholm Diplomatic Conference envisaged that the Assemblies would meet in ordinary session only once every three years and this was reflected in Article 13(7)(a) of the Stockholm Act of the Paris Convention and Article 22(4)(a) of the Stockholm Act of the Berne Convention. These latter provisions were subsequently amended by the Assemblies of the Paris and Berne Unions in 1979 so that ordinary sessions would occur once every two years.

76. In practice, the Executive Committees of the Paris and Berne Unions have never functioned as intended. Neither of the Executive Committees has ever considered, as a body meeting separately, a substantive item of business. The reason for this disjunction between theory and practice seems to be that the powers of the Executive Committees of the Paris and Berne Unions (see Article 14(6)(a) of the Paris Convention and Article 23(6)(a) of the Berne Convention) do not extend, or have been considered not to extend, to budgetary appropriations. Few urgent items of substantive business that require the attention of the Member States do not have budgetary implications. Thus, in practice, extraordinary sessions of the Paris or Berne Union Assemblies have been convened whenever there was a substantive item of business to be dealt with between ordinary sessions of the Assemblies, and the envisaged role of the Executive Committees has in practice been filled by the extraordinary session of the Assembly. Since 1980, there have been 15 extraordinary and nine ordinary sessions of the Assembly of the Paris Union and 11 extraordinary and nine ordinary sessions of the Assembly of the Berne Union.

77. In addition, the Executive Committees of the Paris and Berne Unions may, in respect of matters which are of interest also to other Unions, make decisions only after having heard the advice of the Coordination Committee (see Article 14(6)(b) of the Paris Convention and Article 23(6)(b) of the Berne Convention). Since, in practice, WIPO has tended to function as a single organization, the Coordination Committee is convoked at the same time to consider the same business as is before the Executive Committees. Thus, in years when the Assemblies have not been meeting in either ordinary or extraordinary sessions, the Executive Committees have considered the reports of activities of the Organization. Since these reports have concerned all activities of the Organization, the Coordination Committee has met to consider the reports at the same time as the Executive Committees. Since the composition of the Coordination Committee is made up of the Executive Committees of the Paris and Berne Unions (see Article 8(1) of the WIPO Convention), the role of the Executive Committees has tended to be superfluous.

78. There seem to be cogent reasons, therefore, for the Member States to entertain the possibility of abolishing the Executive Committees of the Paris and Berne Unions. If the Member States did consider it to be appropriate to abolish these Executive Committees, it would be necessary not only to delete the corresponding treaty provisions establishing those Committees (Article 14 of the Paris Convention and Article 23 of the Berne Convention), but also to modify Article 8 (“Coordination Committee”) of the WIPO Convention, which

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<sup>24</sup> *Ibid.* 210, paragraph 79(b) and 446, paragraph 90(b).

establishes the composition of the Coordination Committee (it is principally a combination of the two Executive Committees; see Article 8(1) of the WIPO Convention) and also provides for a special procedure for voting in the Coordination Committee, in certain circumstances, by reference to the separate constituent membership of the Coordination Committee (see Article 8(6)(b) of the WIPO Convention). Likewise, since the Executive Committee of the PCT Union has never been established in practice and its existence has not been considered necessary for the functioning of the PCT Union, it would seem to be appropriate to delete the provisions of the PCT that provide for the establishment of the Executive Committee.

*79. The WIPO Conference and the Assemblies of the Paris and Berne Unions are invited to decide whether to request the Director General to initiate a process to examine whether to amend the WIPO Convention, the Paris Convention and the Berne Convention by abolishing the Executive Committees of the Paris and Berne Unions.*

*80. The PCT Assembly is invited to decide whether to request the Director General to initiate a process to examine whether to amend the PCT by deleting the provisions of the PCT relating to the Executive Committee of the PCT Union.*

81. Conferences of Representatives. The conferences of representatives that exist for various Unions were the predecessor bodies of the Assemblies of those Unions. The Assembly of Member States of a Union was introduced as a result of the reforms at the 1967 Stockholm Diplomatic Conference in the Stockholm Act of those treaties that were revised at that Diplomatic Conference.

82. Conferences of Representatives thus exist only for those Unions (i) which were established under treaties that have Acts that were concluded before 1967, and (ii) which have Member States that have not yet acceded to or ratified the Stockholm (1967) Act of the Treaty. Specifically, the following Conferences of Representatives comprising the following States (the Act of the treaty to which each State is party is given in parentheses after the name of the State) still exist:

Paris Union Conference of  
Representatives

Dominican Republic (The Hague (1925) Act)  
Nigeria (Lisbon (1958) Act)  
Syrian Arab Republic (London (1934) Act)  
(3)

Berne Union Conference of  
Representatives

Lebanon (Rome (1928) Act)  
Madagascar (Brussels (1948) Act)  
New Zealand (Rome (1928) Act)  
(3)

Hague Union Conference of Representatives	Egypt (London (1934) Act) Holy See (London (1934) Act) Indonesia (London (1934) Act) Morocco (London (1934) Act) Spain (London (1934) Act) Tunisia (London (1934) Act) (6)
Nice Union Conference of Representatives	Lebanon (Nice (1957) Act) Tunisia (Nice (1957) Act) (2)
Lisbon Union Council	Haiti (Lisbon (1958) Act) Mexico (Lisbon (1958) Act) (2)

83. The constitutional means by which the five aforementioned Conferences of Representatives were established differs. The *Paris Union Conference of Representatives* was established by Article 14(5)(a) of the Lisbon (1958) Act of the Paris Convention.<sup>25</sup> In contrast, the *Berne Union Conference of Representatives* has no treaty basis. It was created by a resolution of the countries members of the Berne Union which were not members of the Assembly of the Berne Union.<sup>26</sup> The *Hague Union Conference of Representatives* was

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<sup>25</sup> Article 14(5) of the Lisbon (1958) Act of the Paris Convention reads as follows:

“(5)(a) During the interval between the Diplomatic Conferences of revision, Conferences of representatives of all the countries of the Union shall meet every three years in order to draw up a report on the foreseeable expenditure of the International Bureau for each three-year period to come and to consider questions relating to the protection and development of the Union.

“(b) Furthermore, they may modify, by unanimous decision, the maximum annual amount of the expenditure of the International Bureau, provided they meet as Conferences of Plenipotentiaries of all the countries of the Union, convened by the Government of the Swiss Confederation.

“(c) Moreover, the Conferences provided for in paragraph (a) above may be convened between their triennial meetings by either the Director of the International Bureau or the Government of the Swiss Confederation.”

<sup>26</sup> The Resolution reads as follows:

- “1. The countries members of the International Union for the Protection of Literary and Artistic Works (Berne Union) which are not members of the Assembly of the said Union,
- “2. Meeting in Geneva from September 21 to 28, 1970.
- “3. Resolve to establish a Conference of Representatives of the Berne Union;
- “4. Decide that the members of this Conference shall be those member countries of the Berne Union which are not members of the Assembly of the Berne Union, and that any member country of the Berne Union which, in the future, shall become a member of the Assembly of the Berne Union shall automatically cease to be a member of the Conference of Representatives;
- “5. Decide that the Conference of Representatives shall meet every three years in ordinary session in order to draw up, for each three-year period to come, a report on the foreseeable expenditure of the International Bureau as far as the Berne Union is

created by a resolution of the countries members of the Hague Union which were not members of the Hague Assembly.<sup>27</sup> The *Nice Union Conference of Representatives* was also created by a resolution of the countries members of the Nice Union which were not members of the Nice Assembly.<sup>28</sup> The *Lisbon Union Council* was established by Article 9 of the original (Lisbon (1958) Act) of the Lisbon Agreement.<sup>29</sup>

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[Footnote continued from previous page]

concerned, and to consider questions relating to the protection and the development of the said Union;

“6. Resolve that the Conference of Representatives may modify, by unanimous decision, the maximum annual amount of the expenditure of the International Bureau as far as the countries members of the Conference of Representatives are concerned, provided that it meets as a Conference of Plenipotentiaries upon convocation by the Government of the Swiss Confederation;

“7. Resolve that the Conference of Representatives shall establish its own rules of procedure.” (See document AB/1/33, Annex A.)

<sup>27</sup> The Resolution reads as follows:

“The countries members of the Special Union concerning the International Deposit of Industrial Designs (Hague Union) which are not members of the Assembly of the said Union,

“Meeting in Geneva from September 27, 1976 to October 5, 1976.

“1. Resolve to establish a Conference of Representatives of the Hague Union;

“2. Decide that the members of the said Conference of Representatives shall be those member countries of the Hague Union which are not members of the Assembly of the Hague Union, and that any member country of the Hague Union which, in the future, shall become a member of the Assembly of the Hague Union shall automatically cease to be a member of the Conference of Representatives;

“3. Decide further that the Conference of Representatives

“(i) may examine the Management Reports of the International Bureau of WIPO as far as the Hague Union is concerned and may make observations thereon to the Director General of WIPO or the Government of the Swiss Confederation or both,

“(ii) may examine the draft budgets of the Hague Union presented to it by the Director General of WIPO and may make observations thereon to the Director General of WIPO or the Government of the Swiss Confederation or both;

“(iii) may modify, on the proposal of the Director General of WIPO or the Government of the Swiss Confederation, the amounts of the fees to be charged under the Hague Agreement the fixing of which is not within the jurisdiction of the Assembly; decision on such modification shall require the majority of the votes of the countries members of the Conference of Representatives; the procedure provided for in the Additional Act of Monaco of 1961, Article 3, may be applied as an alternative procedure,

“(iv) shall, in connection with the working capital fund of the Hague Union have, in respect of the countries members of the Conference of Representatives, rights analogous to those which the Assembly has in respect of the countries members of the Assembly and shall, by analogy, apply the relevant provisions of the Complementary Act of Stockholm (1967) in respect of the said fund,

“(v) shall establish its own rules of procedure.” (See document H/CR/1/2, Annex.)

<sup>28</sup> The Resolution reads as follows:

“1. The countries members of the International Union Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Union) which are not members of the Assembly of the said Union,

“2. Meeting in Geneva from September 21 to 28, 1970,

“3. Resolve to establish a Conference of Representatives of the Nice Union;

[Footnote continued on next page]

84. The powers conferred on the Conferences of Representatives by their constituent instruments (whether treaty provision or resolution) were extremely limited. In practice, the bodies have never separately considered any item of substantive business. Their convening has tended to be a formality only. Moreover, the number of States belonging to these bodies is small and declining, as States progressively accede to the Stockholm Acts of the relevant treaties. The following table indicates the relative numbers of States belonging to the Assemblies of the treaties in question and of those belonging to the corresponding Conference of Representatives:

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[Footnote continued from previous page]

“4. Decide that the members of this Conference shall be those member countries of the Nice Union which are not members of the Assembly of the Nice Union, and that any member country of the Nice Union which, in the future, shall become a member of the Assembly of the Nice Union shall automatically cease to be a member of the Conference of Representatives;

“5. Decide that the Conference of Representatives shall meet every three years in ordinary session in order to draw up, for each three-year period to come, a report on the foreseeable expenditure of the International Bureau as far as the Nice Union is concerned, and to consider questions relating to the protection and the development of the said Union;

“6. Resolve that the Conference of Representatives may modify, by unanimous decision, the maximum annual amount of the expenditure of the International Bureau as far as the countries members of the Conference of Representatives are concerned, provided that it meets as a Conference of Plenipotentiaries upon convocation by the Government of the Swiss Confederation;

“7. Resolve that the Conference of Representatives shall establish its own rules of procedure.” (See document AB/1/33, Annex B.)

<sup>29</sup> Article 9 of the original (Lisbon (1958) Act) of the Lisbon Agreement reads as follows:

“(1) A Council composed of representatives of all the countries party to the special Union shall be set up, at the International Bureau, for the implementation of this Agreement.

“(2) This Council shall draw up its own statutes and rules of procedure and coordinate them with the organs of the Union for the Protection of Industrial Property and with those of international organizations which have concluded agreements for cooperation with the International Bureau.”

Treaty	Number of States Belonging to the Assembly	Number of States Belonging to the Conference of Representatives
Paris Convention	151	3
Berne Convention	135	3
Hague Agreement	23	6
Nice Agreement	56	2
Lisbon Agreement	17	2

85. In view of the fact that the conferences of representatives have not, in practice, operated as functional bodies, it might be appropriate to consider discontinuing these bodies in the interests of having a simplified governance structure. Discontinuance of the bodies would have the disadvantage of depriving the Member States of those bodies of a forum to express views in respect of questions concerning the treaty to which the body relates. However, three factors suggest that this disadvantage is a theoretical one. First, the powers of these bodies are extremely limited and are in no way commensurate with the powers of the corresponding Assemblies.<sup>30</sup> Secondly, the bodies have never, in practice, exercised any independent decision-making authority. Thirdly, States members of a Conference of Representatives may sit as observers in the corresponding Assembly,<sup>31</sup> where they may express views on any matter before the Assembly.

86. Since the constitutional means by which the various Conferences of Representatives were created differ, a uniform means of discontinuing them is not possible. For the purposes of discontinuing them, a distinction can be made between two categories of the conferences. In the first category are the conferences of representatives created by a treaty provision, namely, the Paris Union Conference of Representatives and the Lisbon Union Council. In the second category are the conferences of representatives created by resolution, namely, the Berne Union Conference of Representatives, the Hague Union Conference of Representatives and the Nice Union Conference of Representatives.

87. The first category of conferences—those created by treaty provision—cannot be abolished. The Acts of the Paris Convention and the Lisbon Agreement which created the conferences have been revised and the conferences created under those Acts will cease to exist only when all States party to those Acts will accede to the revised Acts. However, the two conferences of representatives could themselves resolve not to meet in future and to abide by

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<sup>30</sup> The powers of each Conference of Representatives are set out in the following footnotes:  
– Paris Union Conference of Representatives: footnote 24  
– Berne Union Conference of Representatives: footnote 25  
– Hague Union Conference of Representatives: footnote 26  
– Nice Union Conference of Representatives: footnote 27  
– Lisbon Union Council: footnote 28.

<sup>31</sup> See document A/33INF/1 (“General Information”).

any decisions on matters affecting the treaties for which the conferences exist that are taken by the corresponding Assemblies as if those decisions had been taken by the conferences themselves.

88. The second category of conferences—those created by resolutions—can be abolished by resolution of the corresponding Conferences.

*89. The Paris Union Conference of Representatives is invited to resolve not to meet in future, to request the Director General not to convene it and to agree that decisions of the Assembly of the Paris Union concerning the Paris Convention shall apply as if adopted also by the Paris Union Conference of Representatives.*

*90. The Lisbon Union Council is invited to resolve not to meet in future, to request the Director General not to convene it and to agree that decisions of the Lisbon Union Assembly concerning the Lisbon Agreement will apply as if adopted also by the Lisbon Union Council.*

*91. The Berne Union Conference of Representatives is invited to dissolve itself.*

*92. The Hague Union Conference of Representatives is invited to dissolve itself.*

*93. The Nice Union Conference of Representatives is invited to dissolve itself.*

(b) Option II: The Creation of a Unitary Assembly, the WIPO General Assembly

94. Option I (Streamlining the Twenty-One Governing Bodies) would, if adopted in its entirety, result in a governance structure in which there would be one Assembly for each WIPO treaty that provides for a governing body of Member States, as well as the WIPO Coordination Committee, but no other governing bodies (the WIPO Conference, the Executive Committees of the Paris Union, the Berne Union and the PCT Union and the various Conferences of Representatives would no longer exist or be convened). The “Organization” would have, in consequence 13, instead of 21, governing bodies. In order to simplify even further the governance structure, the Member States might wish to entertain the idea of amending the administrative provisions of the WIPO treaties so as to make the WIPO General Assembly the body competent to make decisions in respect of all WIPO treaties. In other words, each Assembly constituted by a WIPO treaty would be replaced by the WIPO General Assembly so that there would be one organization, one Assembly of Member States, one Secretariat and one contribution from Member States. There would, of course, continue

to be a number of different treaties, with differing memberships, providing for rights and obligations in the field of intellectual property. They would, however, all be administered in accordance with the unitary structure.

95. The advantages of making the WIPO General Assembly the competent body for all treaties administered by WIPO are:

(i) the Organization would have a simple, straightforward governance structure that would be easy to understand;

(ii) the Organization's governance structure would correspond to the unitary structures of other international organizations. The multiple governing body structure of WIPO remains an exception to the norm;

(iii) the administration of the meetings of Member States would be vastly simplified. It would no longer be necessary to elect multiple officers for the various Assemblies, Conferences and other bodies. It would likewise no longer be necessary to maintain separate series of documents and reports;

(iv) the unitary structure of a single Assembly would correspond to the practice of the meetings of Member States. In practice, all governing bodies of WIPO meet, at least in ordinary session, simultaneously, the only ostensible difference in the conduct of proceedings being the difference in presiding officer. The unitary structure would also correspond to the tendency towards integration in the organizational structure of WIPO that commenced with the introduction of the unitary contribution system.

96. The disadvantage of making the WIPO General Assembly the competent body for treaties administered by WIPO is the possibility that States, members of WIPO, but not party to other WIPO treaties, could vote on questions relating to a treaty to which they are not party and, thus, by which they are not bound. Such States would have rights without the corresponding obligations. This is a problem, however, that could be solved by appropriate drafting of the voting rights of members of the WIPO General Assembly. In order to preserve an appropriate correspondence between rights and obligations, it could be provided, in the amended administrative provisions of the various WIPO treaties, that a State was entitled to vote in the WIPO General Assembly only in respect of matters concerning treaties to which it was party (or, alternatively, that, in respect of matters concerning a particular treaty, only States party to that treaty could vote).

97. The implementation of the option that the WIPO General Assembly become the competent body for all treaties administered by WIPO would require the amendment of the provisions relating to Assemblies of 13 treaties, namely, the WIPO Convention, the Paris Convention, the Berne Convention, the Madrid Agreement, the Madrid Protocol, the Hague Agreement, the Nice Agreement, the Lisbon Agreement, the Locarno Agreement, the PCT, the Strasbourg Agreement, the Vienna Agreement and the Budapest Treaty on the

International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.<sup>32</sup>

*98. The WIPO Conference and the Assemblies of the Paris Union, the Berne Union, the Madrid Union, the Hague Union, the Nice Union, the Lisbon Union, the Locarno Union, the PCT Union, the Strasbourg (IPC) Union, the Vienna Union and the Budapest Union are invited to decide whether to request the Director General to initiate a process to examine whether to amend the corresponding treaties in order to make the WIPO General Assembly the competent governing body for each such treaty.*

V. Other Matters

99. If, in taking decisions on the matters set out in the preceding parts of this document, the Member States decide that a comprehensive process of review of the administrative provisions of the WIPO treaties should be initiated with a view to the amendment of those provisions, the Member States may wish to include certain other matters in the process of review. In particular, three other matters might be considered appropriate for inclusion.

100. The first such matter is the periodicity of ordinary sessions of the Assemblies and other bodies. At present, the standard rule in WIPO treaties is for ordinary sessions of the governing body to take place every two years.<sup>33</sup> Two years might be considered to be too long an interval for ordinary meetings, especially if Member States were to decide that the WIPO General Assembly should be the competent Assembly for all WIPO treaties. Since 1980, for example, the WIPO General Assembly has been convened in extraordinary session on nine occasions, so that it has met 18 times in the 19 years since 1980.

101. The second matter concerns budgets. Following the introduction of the unitary contribution system, four budgets are maintained, namely, one budget for the contribution-financed treaties, one budget for the PCT, one for the Madrid Union and one for the Hague Union. Member States may wish to consider the desirability of integrating these budgets into one budget of the Organization.

102. The third matter is the working capital funds of the various contribution-financed Unions. The administration of these funds is discussed in another document, "Policy on

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<sup>32</sup> It would also need to be decided whether it would be useful to amend the corresponding provisions of the Trademark Registration Treaty and the Film Register Treaty whose Unions have been "frozen" and "suspended," respectively, and whose Assemblies no longer meet.

<sup>33</sup> The Coordination Committee (Article 8(4)(a) of the WIPO Convention) and the Executive Committees of the Paris and Berne Unions (Article 14(7)(a) of the Paris Convention and Article 23(7)(a) of the Berne Convention) are exceptions. Their ordinary sessions are held once a year.

Reserve Funds and Surpluses” (document WO/PBC/1/3). In that document it is suggested that consideration be given to the practical integration of the working capital funds for ease of administration. If that suggestion were adopted, consideration could be given to the amendment of the corresponding provisions of the WIPO Convention,<sup>34</sup> the Paris Convention,<sup>35</sup> the Berne Convention,<sup>36</sup> the Madrid Agreement,<sup>37</sup> the Hague Agreement,<sup>38</sup> the Nice Agreement,<sup>39</sup> the Lisbon Agreement,<sup>40</sup> the Locarno Agreement,<sup>41</sup> the PCT,<sup>42</sup> the Strasbourg Agreement<sup>43</sup> and the Vienna Agreement.<sup>44, 45</sup> These provisions are all in the Articles of those treaties dealing with Finances, which require amendment, in the case of the contribution treaties, in order to bring those treaties into line with the unitary contribution system and changes in contribution classes.

*103. The WIPO Conference and the Assemblies of the Paris Union, the Berne Union, the Madrid Union, the Hague Union, the Nice Union, the Lisbon Union, the Locarno Union, the Strasbourg (IPC) Union, the PCT Union, the Budapest Union and the Vienna Union are invited to pronounce themselves on the desirability of including periodicity of ordinary sessions, budget structure and working capital funds in the matters that may be included in any process initiated to review the administrative provisions of the corresponding treaties with a view to their amendment.*

[Annexes follow]

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<sup>34</sup> Article 11(8).

<sup>35</sup> Article 16(6).

<sup>36</sup> Article 25(6).

<sup>37</sup> Article 12(6).

<sup>38</sup> Article 4(6) of the Complementary Act of Stockholm of July 14, 1967.

<sup>39</sup> Article 7(6).

<sup>40</sup> Article 11(7).

<sup>41</sup> Article 7(6)).

<sup>42</sup> Article 57(7).

<sup>43</sup> Article 9(6).

<sup>44</sup> Article 9(6).

<sup>45</sup> It would also need to be decided whether it would be useful to amend the corresponding provisions of the Trademark Registration Treaty (Article 34(5)) and the Film Register Treaty (Article 7(6)) whose Unions have been “frozen” and “suspended,” respectively, and whose Assemblies no longer meet.

## ANNEX I

Provisions in WIPO Treaties Enabling the Amendment  
of the Treaties Through a Procedure Before the Assembly  
or Other Organ of the Contracting States

Treaty	Provision Establishing Procedure for Amendment by the Assembly or Other Organ of the Contracting States	Provisions in Treaty that may be Amended by the Assembly or Other Organ
Convention Establishing the World Intellectual Property Organization	Article 17 (WIPO Conference)	All
Paris Convention for the Protection of Industrial Property	Article 17 (Paris Union Assembly)	Article 13 (Assembly of the Union) Article 14 (Executive Committee) Article 15 (International Bureau) Article 16 (Finances) Article 17 (Amendment of Articles 13 to 17)
Berne Convention for the Protection of Literary and Artistic Works	Article 26 (Berne Union Assembly)	Article 22 (Assembly) Article 23 (Executive Committee) Article 24 (International Bureau) Article 25 (Finances) Article 26 (Amendments)
Madrid Agreement For the Repression of False or Deceptive Indications of Source on Goods <sup>1</sup>	No provisions	--

<sup>1</sup> This treaty does not provide for any Assembly or other administrative organ of contracting States.



Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks	Article 8 (Nice Union Assembly)	Article 5 (Assembly of the Special Union) Article 6 (International Bureau) Article 7 (Finances) Article 8 (Amendment of Articles 5 to 8)
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration	Article 12 (Lisbon Union Assembly)	Article 9 (Assembly of the Special Union) Article 10 (International Bureau) Article 11 (Finances) Article 12 (Amendment of Articles 9 to 12)
International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations <sup>2</sup>	No provisions	--
Locarno Agreement Establishing an International Classification for Industrial Designs	Article 8 (Locarno Union Assembly)	Article 5 (Assembly of the Special Union) Article 6 (International Bureau) Article 7 (Finances) Article 8 (Amendment of Article 5 to 8)

<sup>2</sup> This treaty does not provide for any Assembly or other administrative organ of contracting States, except for an Intergovernmental Committee.

Patent Cooperation Treaty	Article 61 (PCT Union Assembly)	Article 53(5), (9) and (11) (Assembly) Article 54 (Executive Committee) Article 55(4) to (8) (International Bureau) Article 56 (Committee for Technical Cooperation) Article 57 (Finances)
Strasbourg Agreement Concerning the International Patent Classification	Article 11 (Strasbourg Union Assembly)	Article 7 (Assembly of the Special Union) Article 8 (International Bureau) Article 9 (Finances) Article 11 (Amendment of Certain Provisions of the Agreement)
Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms <sup>1</sup>	No provisions	--
Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks	Article 11 (Vienna Union Assembly)	Article 7 (Assembly of the Special Union) Article 8 (International Bureau) Article 9 (Finances) Article 11 (Amendment of Certain Provisions of the Agreement)
Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite <sup>1</sup>	No provisions	--

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	Article 14 (Budapest Union Assembly)	Article 10 (Assembly) Article 11 (International Bureau)
Nairobi Treaty on the Protection of the Olympic Symbol <sup>1</sup>	No provisions	--
Treaty on the International Registration of Audiovisual Works	Article 10 (FRT Union Assembly)	Article 5(6) and (8) (Assembly) Article 6(4) and (5) (International Bureau) Article 7(1) to (3) and (5) to (7) (Finances)
Trademark Law Treaty <sup>1</sup>	No provisions	--
Treaty on Intellectual Property in Respect of Integrated Circuits	Article 11 (IPIC Union Assembly)	Article 2(i) and (ii) (Definitions) Article 3(1)(c) (The Subject Matter of the Treaty) Articles 9(1)(c) and (d) and 9(4) (Assembly) Article 10(1)(a) (International Bureau) Article 14 (Settlement of Disputes)
WIPO Copyright Treaty	No provisions	--
WIPO Performances and Phonograms Treaty	No provisions	--

[Annex II follows]

ANNEX II

WIPO Treaties Classified According to Whether  
Contributions Are Required of Contracting States

A. Treaties Providing for Contributions by Contracting States

- Convention Establishing the World Intellectual Property Organization;
- Paris Convention for the Protection of Industrial Property;
- Berne Convention for the Protection of Literary and Artistic Works;
- Strasbourg Agreement Concerning the International Patent Classification;
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- Locarno Agreement Establishing an International Classification for Industrial Designs;
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

B. Treaties Containing No Provision for Contributions by Contracting States

- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods;
- Madrid Agreement Concerning the International Registration of Marks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks;
- Hague Agreement Concerning the International Deposit of Industrial Designs;
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration;
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations;
- Patent Cooperation Treaty;
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms;
- Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
- Nairobi Treaty on the Protection of the Olympic Symbol;
- Treaty on the International Registration of Audiovisual Works;
- Trademark Law Treaty;
- Treaty on Intellectual Property in Respect of Integrated Circuits (not yet in force);
- WIPO Copyright Treaty (not yet in force);
- WIPO Performances and Phonograms Treaty (not yet in force).

[Annex III follows]

## ANNEX III

## ARREARS IN CONTRIBUTIONS

As of December 31,		Total Arrears (thousand francs)	Increase over previous biennium in %
1983		7,805.2	–
1985		8,020.8	2.76
1987		10,894.1	35.82
1989		12,986.0	19.20
1991	8,873.6 non-frozen 5,262.3 frozen	14,135.9	8.85
1993	10,183.3 non-frozen 4,823 frozen	15,006.6	6.16
1995	10,725.5 non frozen 4,756.5 frozen	15,482.0	3.17
1997	11,405.2 non frozen 4,715.6 frozen	16,120.8	4.13

[End of Annex III and of document]