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WORLD INTELLECTUAL PROPERTY ORGANIZATION
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STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

First Session

Geneva, November 2 to 10, 1998

ORGANIZATIONAL AND PROCEDURAL MATTERS
AND OVERVIEW OF SUBSTANTIVE ISSUES

Memorandum prepared by the International Bureau

I. INTRODUCTION

1. The Assemblies of the Member States of WIPO and the Unions administered by WIPO, at their thirty-second series of meetings, held in Geneva from March 25 to 27, 1998, approved the Program and Budget for the 1998-99 biennium (document A/32/2-WO/BC/18/2; approval reported in document A/32/7, paragraph 93), in which a proposal for the establishment of "Standing Committees" was included. The introductory portion of the Program and Budget (page viii) contains the following paragraph:

"The progressive development of international intellectual property law and international harmonization will be facilitated by the rationalization and amalgamation of the existing multiple Committees of Experts to form Standing Committees of Member States to examine questions of substantive law or harmonization in WIPO's main fields of activity. As the Standing Committees will deal with clusters of interlocking issues rather than working in isolation on single issues, they will also give Member States a more effective mechanism for setting priorities and allocating resources, and ensure the coordination and

continuity of interrelated on-going work. As with the existing committee system, the expertise and breadth of representation of Member States would enable the Standing Committees to advance discussion on the substance of an issue to the point where the main characteristics of the possible solution are clear, and then to formulate recommendations for consideration by the General Assembly (or other Assembly) on the appropriate form and procedural steps for the solution to be adopted and implemented, whether by a formal treaty or by other means. Each Standing Committee would be established by the relevant Assembly through the adoption of this program and budget, and its agenda determined during its first meeting, based on the relevant program objectives, to be reviewed in subsequent meetings. To ensure a wide range of representation, WIPO would finance participation by some Member States.”

2. The Standing Committee on Copyright and Related Rights (herein referred to as the “SCCR”) was established in the context of Main Program 10 as follows:

“(Strategy for the future)”

...WIPO activities aimed at developing the international system for protecting copyright and related rights will be better harmonized, more thoroughly prepared and more transparent, partly through the operations of a new Standing Committee on Copyright and Related Rights.”

“(New program activities)”

...Establishment of a Standing Committee on Copyright and Related Rights to consider emerging issues in this field, and to absorb and carry out, at a suitable point, the functions of existing committees of experts on issues currently being addressed in the progressive development of international law in copyright and related rights...”

3. Furthermore, the following activities of the SCCR have been envisaged in Sub-programs 10.2 to 10.5:

– Sub-program 10.2–Protection of Audiovisual Performances:

“Two or three meetings of representatives of WIPO Member States and of the European Communities, taking the form, depending on the progress and the requirements of the preparatory work, of a committee of experts (involving also interested inter-governmental and non-governmental organizations), of sessions of the Standing Committee on Copyright and Related Rights, of informal consultations and negotiations and/or of a preparatory meeting to deal with the procedural aspects of the diplomatic conference.”

– Sub-program 10.3–Protection of Databases:

“Two or three meetings of representatives of WIPO Member States and of the European Communities, taking the form, depending on the progress and requirements of the preparatory work, of information meetings, sessions of a

committee of experts (involving also interested inter-governmental and non-governmental organizations), sessions of the Standing Committee on Copyright and Related Rights, or informal consultations and negotiations...”

- Sub-program 10.4–Protection of the Rights of Broadcasting Organizations:

“Two or three meetings of representatives of WIPO Member States and of the European Communities, to take the form, depending on the progress and requirements of the preparatory work, of information meetings, of sessions of a committee of experts (involving also interested inter-governmental and non-governmental organizations), sessions of the Standing Committee on Copyright and Related Rights, and/or informal consultations and negotiations.”

- Sub-program 10.5–Copyright, Related Rights and Digital Technology:

“One or two sessions of the Standing Committee on Copyright and Related Rights over the biennium to consider in particular the impact of digital technology and global information networks on copyright and related rights, each session preceded by a hearing for, or other consultations with, interested non-governmental organizations on the issues to be discussed in that session.”

4. The present document proposes details on organizational and procedural matters and an overview of substantive issues for consideration by the SCCR.

II. ORGANIZATIONAL AND PROCEDURAL MATTERS

Rules of Procedure

5. It is proposed not to establish separate organizational rules for the SCCR but rather that the general rules of procedure adopted for WIPO bodies, namely the WIPO General Rules of Procedure (publication No. 399 Rev.3) should apply, along with any special rules of procedure that the SCCR may wish to adopt.

6. It is proposed that the SCCR adopt such a special rule of procedure, namely that membership in the SCCR also be extended to Member States of the Berne Union that are not Member States of WIPO, and that observer status be extended to Member States of the United Nations that are not Member States of WIPO or the Berne Union.

7. Furthermore, as according to Sub-programs 10.2 to 10.4 the main activities described therein are to be dealt with in meetings of “representatives of WIPO Member States and of the European Communities,” it should also be mentioned that the WIPO General Rules of Procedure envisage that only States can have the status of delegations. The SCCR will have to decide whether it wishes to derogate from this rule and, if so, how.

Membership and observers

8. Pursuant to Rules 7 and 8 of the General Rules of Procedure, and in line with the proposal under paragraph 6, above, the Director General has invited to the first meeting of the SCCR, as members, all Member States of WIPO and/or the Berne Union, and as observers, Member States of the United Nations that are not members of WIPO or the Berne Union and intergovernmental organizations and non-governmental organizations that had previously been invited to the sessions of the Committee of Experts on a Protocol concerning Audiovisual Performances, as well as to the Information Meeting on Intellectual Property in Databases, including the European Communities, which had the status of a delegation in the Committee of Experts on a Protocol concerning Audiovisual Performances and in the Information Meeting on Intellectual Property in Databases and which is also qualified to become a Contracting Party of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

9. It may be of interest in this context that the other three new Standing Committees established under the current Program and Budget of WIPO, in their respective first sessions, took different approaches in this respect:

– In the Standing Committee on the Law of Patents, the European Communities, among other intergovernmental organizations, took part in an observer capacity (document SCP/1/7 Prov.1, paragraph 3), none of the said organizations having requested membership status.

– The Standing Committee on Information Technologies adopted a special rule of procedure, according to which the African Intellectual Property Organization (OAPI), the African Regional Industrial Property Organization (ARIPO), the European Patent Organisation (EPO), the Benelux Trademark Office (BBM) and the Benelux Designs Office (BBDM), the Eurasian Patent Organization (EAPO), and the European Communities were admitted as members without a right to vote (document SCIT/1/7 Prov.1, paragraph 3, 11 and Annex III, Appendix I).

– The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications also adopted a special rule of procedure, according to which the European Communities took part as a member, without the right to vote (document SCT/1/6 Prov.1, paragraph 16).

10. Furthermore, it is within the power of the SCCR to modify the status of *ad hoc* invitees (that is, non-governmental organizations that are not accredited with observer status with WIPO), and to extend invitations to other organizations, if it wishes. The Director General may, on his own initiative or, at the proposal of the SCCR, invite representatives of other organizations to participate as observers at the sessions of the SCCR.

Languages

11. In the current session of the SCCR, simultaneous interpretation will be provided from and into English, French, Russian and Spanish, and from Arabic and Chinese. The working documents for the current session of the SCCR have been prepared in English, French and Spanish. These arrangements, which were also followed for the first session of the Standing Committee on the Law of Patents, have been applied, pending consideration by the WIPO General Assembly of the question of languages in meetings of WIPO bodies.

Sessions

12. In conformity with the budgetary allocations in Sub-programs 10.2 to 10.5 of the current Program and Budget, it is proposed that the SCCR hold two or three sessions in the 1998-99 biennium. For the first session, preparations have been made to have discussions in the SCCR on the first five days, that is from November 2 to 6, 1998. As a meeting room will not be available on Monday, November 9, a draft report could be prepared in the meantime and submitted to the SCCR for approval on Tuesday, November 10.

Funding of participation of government officials

13. In conformity with the budgetary allocations in Sub-programs 10.2 to 10.5 of the Program and Budget, WIPO has facilitated for the present session the participation of representatives of developing countries, and of certain countries in Europe and Asia.

14. The SCCR is invited to adopt the special rule of procedure proposed above, to consider other possible derogations from the General Rules of Procedure mentioned above, and to note the working arrangements described above.

III. OVERVIEW OF SUBSTANTIVE ISSUES

15. As far as the activity described under Sub-program 10.2—Protection of Audiovisual Performances—is concerned, the Committee of Experts on a Protocol concerning Audiovisual Performances, at the end of its second session held in Geneva from June 8 to 12, 1998, draw the following conclusion:

“– the further substantial discussions on the Protocol will take place at the first session of the Standing Committee on Copyright and Related Rights in November 1998, where this issue should be given a proper priority...” (document AP/CE/2/9, paragraph 127).

Consequently, this subject is proposed, for the agenda of the Standing Committee, as the first substantive issue to be discussed.

16. The activities under Sub-programs 10.3–Protection of Databases– and 10.4–Protection of Rights of Broadcasting Organizations–are also covered by the draft agenda as well as by the documents relating to them, prepared for the SCCR by the International Bureau.

17. Activities described under Sub-program 10.5–Copyright, Related Rights and Digital Technology–are subjects of the following other meetings currently scheduled by the International Bureau:

- a meeting of an Advisory Committee on Management of Copyright and Related Rights in Global Information Networks, December 14 and 15, 1995; and

- a meeting of a group of consultants on private international law aspects of the protection of works and objects of related rights transmitted through global digital networks, December 16 to 18, 1998.

18. In addition, the International Bureau is planning to dedicate further meetings or special fora in 1999 to the subjects, also foreseen in Sub-program 10.5, of:

- the creation, licensing and protection of multimedia productions; and
- the nature and extent of liability of service and access providers in respect of transmissions on digital networks.

It is therefore suggested rather not to discuss the issues covered by Sub-program 10.5 in the first session of the SCCR.

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