

# WORLD TRADE ORGANIZATION

RESTRICTED

**IP/C/M/5**

5 January 1996

(96-0018)

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## **Council for Trade-Related Aspects of Intellectual Property Rights**

### MINUTES OF MEETING

Held in the Centre William Rappard  
on 11 December 1995

Chairman: Mr. S. Harbinson (Hong Kong)

#### Subjects discussed:

- A. Draft agreement between the WIPO and the WTO
- B. Draft decision on the implementation of the obligations under the TRIPS Agreement stemming from the incorporation of the provisions of Article 6ter of the Paris Convention (1967)

1. Pursuant to the interim procedure on observer status for intergovernmental organizations evolved under the auspices of the General Council, the Council for TRIPS agreed to invite, in addition to WIPO, the same intergovernmental organizations as it had invited to its earlier meetings, namely the IMF, the FAO, the OECD, the United Nations, UNCTAD, the UPOV, the WCO and the World Bank, to be represented as observers at the present and the next meeting of the Council.

#### **A. Draft agreement between the WIPO and the WTO**

2. The Chairman recalled that, at the Council's meeting on 21 November, he had put before the Council a draft agreement between the WIPO and the WTO contained in document IP/C/W/17, which he had drawn up together with the representative of WIPO, Ambassador Loizaga of Paraguay, Chairman of the WIPO Coordination Committee. Given that delegations had received the text just before the meeting and also that certain points had been raised regarding, in particular, Article 5(2)(b) of the draft, the Council had agreed to meet again on 11 December with a view to taking action on the proposed agreement. Since the last meeting, further consultations had taken place in the framework of WIPO given that the issues regarding Article 5(2)(b) were primarily of concern to WIPO. As a result of these consultations, he had proposed two amendments contained in document IP/C/W/17/Add.1. The first was a purely technical change designed to remove any risk of confusion with the status of "Contracting Party" under the GATT 1947. It aligned the language with the WTO Agreement which referred, above its Preamble, to "Parties". The second change simplified Article 2(5) by removing references to countries in transition. These two changes had also been put to the members of WIPO at informal consultations held on 8 December. Ambassador Loizaga had informed him that they had been agreed in that context.

3. The Council agreed with the amendments proposed by the Chairman.

4. In regard to Article 5(2)(b), the Chairman recalled that this provision had been inserted to meet a concern expressed by the WIPO side relating to the possible application of the agreement to future

WTO Members that would not be eligible for membership of WIPO. Ambassador Loizaga had informed him of the consultations that he had held in the WIPO framework on this matter, and that, as a result of these consultations, it had been accepted that Article 5(2)(b) of the text be deleted. Ambassador Loizaga had also informed him that, when he made this proposal to the Coordination Committee and General Assembly of WIPO, he would also propose that those bodies approve the following statement:

"Approval and implementation of the WIPO-WTO agreement has no implications for current or future members of either WIPO or WTO concerning their recognition by other members of WIPO or WTO or their status with respect to WIPO or WTO."

5. The Council agreed to delete Article 5(2)(b).

6. The Chairman said that the draft agreement between WIPO and the WTO would be before the General Council for its approval at its meeting of 13 and 14 December. It would be considered by the Coordination Committee and the General Assembly of WIPO at meetings on 19-21 December. He would consult with the Chairman of the General Council, Ambassador Kesavapany, to see whether, should any further action be required by the WTO after those WIPO meetings, responsibility for such action could be delegated to the Council for TRIPS, so as to obviate any need for the General Council to meet again and to enable the agreement to enter into force on 1 January 1996.

7. The representative of Mexico, referring to the statement quoted by the Chairman, said that her Government, as her delegation had also stated in WIPO, would not be in a position to accept the statement as quoted, because in her country's foreign policy the word "recognition" was not accepted. She also clarified that, except for the use of that term, her delegation had no difficulties with the statement.

8. The Chairman noted that the Mexican intervention concerned a statement proposed to be made in the context of WIPO. While the Council for TRIPS should take note of the intervention, it would be difficult for the Council to go into a matter which in effect was an internal matter for WIPO. Concluding the item, the Chairman proposed that the Council for TRIPS approve the draft agreement between the WIPO and the WTO, as contained in document IP/C/W/17, with the two amendments suggested in IP/C/W/17/Add.1 and with the deletion of Article 5(2)(b), and submit it to the General Council for its approval.

9. The Council took note of the statement of Mexico and agreed to approve the draft agreement with the amendments indicated by the Chairman and to submit it to the General Council for its approval.

**B. Draft decision on the implementation of the obligations under the TRIPS Agreement stemming from the incorporation of the provisions of Article 6ter of the Paris Convention (1967)**

10. The Chairman recalled that, at the Council's meeting on 21 November, he had proposed a decision on this matter which would give legal effect under the TRIPS Agreement to the procedures relating to the administration of TRIPS obligations regarding Article 6ter of the Paris Convention that had been incorporated in the agreement with WIPO. The text of this draft decision had been circulated in document IP/C/W/18. He proposed that the Council adopt this decision on the assumption that the agreement between the WIPO and the WTO would be approved by the two Organizations and would enter into force. If this did not prove to be the case, the TRIPS Council would need to reconsider this decision.

11. The Council so agreed.