

C. N 3989

The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to refer to the Sixtieth Series of Meetings of the Assemblies of the Member States of WIPO, namely, the three Assemblies of WIPO and of the Unions administered by WIPO that will meet in extraordinary sessions on May 7 and 8, 2020: (1) WIPO General Assembly, fifty-second (28th extraordinary) session; (2) Paris Union Assembly, fifty-fifth (31st extraordinary) session; and (3) Berne Union Assembly, forty-ninth (25th extraordinary) session. The Covid-19 pandemic, and related public health restrictions, including Host State prohibitions on public gatherings of more than five people, have required the Organization to reassess the feasibility of physically hosting in-person governing body meetings at its headquarters. In these exceptional circumstances, and relating only to the meetings of the WIPO Assemblies on May 7 and 8 to appoint the next Director General, the Organization has engaged in timely consultations and preparations to nevertheless ensure the orderly and effective conduct of these meetings in an alternative format.

The challenges faced by the international community at this time are unprecedented, and ensuring that critical functions continue unimpeded requires innovation and agility within the applicable legal frameworks. It is for this reason that the following, necessarily equally unprecedented, written procedure is hereby proposed that would allow the WIPO General Assembly, the Paris Union Assembly, and the Berne Union Assembly to take relevant decisions at their May meeting for the successful discharge of their treaty obligations as part of the process of the election of the Director General.

In the first instance, Member States are requested to respond affirmatively as to their agreement or disagreement to conduct the May 7 and 8 meeting of the WIPO Assemblies in the form of a written procedure by which they would consent to the draft decisions under consideration. Member States shall provide their affirmative responses to their respective Group Coordinators, who are requested, in turn, to transmit the positions of their Group Members, in writing, to the International Bureau **no later than 5 p.m. April 20, 2020**. The written responses of the Group Coordinators, on behalf of their Members, will be evidence of, and the basis for determining, whether the required quorum for the meeting of Member States, in the form of a written procedure, has been reached.

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In accordance with Article 6(3)(b) of the WIPO Convention, Article 13(4)(b) of the Paris Convention, and Article 22(3)(b) of the Berne Convention, one-half of the countries members of the respective Assembly shall constitute a quorum. If a quorum has been reached, and at least two-thirds of the Member States (representing the required majority pursuant to Articles 6(3)(d), 13(4)(d), and 22(3)(d) of the WIPO, Paris and Berne Conventions, respectively) consent, the decision to proceed with a written procedure, as set forth below, shall be considered adopted.

The International Bureau will then communicate, via Group Coordinators, by April 22, 2020 whether quorum and the required majority to adopt the written procedure have been reached.

In the second instance, should Member States agree to conduct the May 7 and 8 meeting of WIPO Assemblies in the form of a written procedure, they will authorize the Chair of the WIPO General Assembly to circulate, on April 27, 2020, the relevant draft decisions regarding the appointment of the next Director General for their consideration, and, *in the absence of explicit objection*, in the form of a negative written response, **within 7 calendar days, or no later than 5 p.m. May 4, 2020**, such decisions shall be considered adopted. Recognizing that no vote is technically possible and foreseen for the adoption of the draft decision(s) in accordance with the written procedure, it is therefore underscored that any explicit objection to the proposed decision(s) shall specify clearly the precise nature of the objection to allow the Chair of the WIPO General Assembly to determine its legal significance, if any, consistent with the applicable rule(s) of procedure.

It is noted that Member States will have a separate opportunity to provide any written statements that they wish to be reflected in the official report of the meeting; the written procedure is exclusively for the purpose of adopting the decisions under consideration, and shall not be used as the format through which Member States make any general observations or interventions. Member States will be requested to provide any such statements to be included in the formal report of the meeting to the International Bureau by **May 7, 2020**. Thereafter, the relevant decisions shall be considered adopted and the meeting closed on May 8, 2020.

In summary, the timeline of steps as part of the proposed written procedure are as follows:

April 20	Deadline (5 p.m.) for Member States (<i>via</i> Group Coordinators) to respond affirmatively as to their agreement or disagreement regarding the proposal for written procedure.
April 27	Chair of the WIPO General Assembly issues circular formally notifying the decisions to be taken in the May 7 and 8 meeting.
May 4	Deadline (5 p.m.) for receipt of any explicit written objection to the decisions under consideration.
May 7	Deadline (5 p.m.) for the receipt of any statements by Member States to be included in the formal report of the meeting.
May 8	Decisions considered adopted and meeting closed.

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It is recalled, once again, that the global Covid-19 pandemic has prompted the need for exceptional measures across all segments of society and governance. The proposed written procedure is therefore one such response in this context, and shall not be considered a precedent for the conduct of future meetings of the Assemblies of WIPO Member States in otherwise non-exceptional circumstances. Further, it is understood that decisions adopted as part of the written procedure were taken validly and consistent with the applicable legal framework and shall not be the subject of any challenge thereto.



April 14, 2020