

## **Constitutional amendments to the Convention Establishing the World Intellectual Property Organization (WIPO)**

### **Introduction**

- 4.1 The *Constitutional amendments to the Convention establishing the World Intellectual Property Organization (WIPO)*<sup>1</sup> consist of two sets of minor changes adopted in 1999 and 2003 aimed at simplifying the WIPO system. There are no substantive changes to Australia's obligations under any of the WIPO administered treaties.

### **The Amendments**

- 4.2 The 1999 Amendment limits the tenure of the Director General of WIPO to a maximum of two fixed terms of six years each.<sup>2</sup>
- 4.3 The 2003 Amendments relate to three matters:
- The abolition of the WIPO Conference. The activities and work of the WIPO Conference are largely overlapped by the activities and

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1 Full title: *Constitutional amendments to the Convention establishing the World Intellectual Property Organization and other WIPO administered treaties adopted by the WIPO General Assemblies in September 1999 and October 2003* [2007] ATNIF 20 and [2007] ATNIF 21.

2 National Interest Analysis (NIA), para. 20.

work of the WIPO General Assembly. The WIPO General Assembly will take over the functions of the WIPO Conference<sup>3</sup>;

- The formalisation of the unitary contribution system and changes in contribution classes. The unitary contribution system, which involves the classes of financial contribution by member states, has been changed to be more equitable and in line with the economic capacity of Member Countries<sup>4</sup>; and
- The establishment of annual ordinary sessions of the WIPO General Assembly and the Assemblies of the Unions administered by WIPO. The General Assembly will now meet every year, rather than every two years.<sup>5</sup>

4.4 The NIA states that Australia strongly supports constitutional reforms that simplify the international intellectual property system and has previously indicated its support for these amendments.

## **Consultation and entry into force**

4.5 Consultation on this treaty was undertaken in conjunction with the consultation process for the Singapore Treaty (see paragraph 3.11 of Chapter 3 of this Report). The NIA states that any feedback IP Australia received was supportive of the amendments.<sup>6</sup>

4.6 Both the 1999 and 2003 amendments will enter into force once three-fourths of WIPO member states (at the time the amendments were adopted) have ratified. Once in force, the amendments will bind all States that are party to the instrument including those states that have not formally accepted it.<sup>7</sup>

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3 NIA, para. 10.

4 NIA, para. 12.

5 NIA, para. 16.

6 NIA, 'Consultation', para. 6.

7 NIA, para. 22.

## Implementation and costs

- 4.7 No action is required to implement the amendments.<sup>8</sup> However, the Committee was informed that Australia is party to the following treaties that are to be amended to formally implement the recommendations adopted by the assemblies: the Convention Establishing the World Intellectual Property Organisation; the Paris Convention for the Protection of Industrial Property; the Berne Convention for the Protection of Literary and Artistic Works; the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration Marks; the Patent Cooperation Treaty; the Strasbourg Agreement Concerning the International Patent Classification; and the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure.<sup>9</sup>
- 4.8 Acceptance of the amendments is not expected to result in additional costs to the Commonwealth or the State or Territory governments.<sup>10</sup>

## Recommendation

### Recommendation 3

**The Committee supports the *Constitutional amendments to the Convention establishing the World Intellectual Property Organization* and recommends that binding treaty action be taken.**

8 NIA, para. 26.

9 Mrs Fatima Beattie, *Transcript of Evidence*, 17 September 2007, p. 15.

10 NIA, para. 27.

