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## **FUTURE STEPS FOR THE PROTECTION OF AUDIOVISUAL PERFORMANCES**

The Association of European Performers' Organisations (AEPO) would like to express its interest for the adoption of a comprehensive and protective instrument in the field of audiovisual performances which, it believes, is an essential element to improve the situation of performers internationally.

The AEPO has closely participated to the debates at international and European level on this subject and has already submitted its position during the diplomatic conferences of 1996 and 2000.

However, when considering the next step in the negotiations, the AEPO would like to express its concerns on some essential points of these negotiations:

- The 19 articles referred to in the memorandum of the WIPO Director General of September 24, 2001 and described therein as having been "provisionally adopted" during the Diplomatic Conference of December 2000 represent only one of several bases of discussion by a new Diplomatic Conference on this issue. No legal rule of principle gives them any legal significance and their "provisional adoption" was in the context of negotiations that unfortunately did not result in an agreement. As was made clear by the AEPO, the content of some articles did not constitute satisfactory protection for performers.
- A future diplomatic conference should not be based in the principle that performers' rights, uniquely among intellectual property rights, must be transferred to the producers either by contract or by law. Performers' rights can be exercised towards users by performers' collective management organisations or by performers themselves, individually or collectively.
- A future diplomatic conference should, as in 1996 and other comparable cases, be based on voting and not, as in December 2000, on a form of assumed or imposed "consensus".

The AEPO therefore strongly urges the WIPO Member States to seek, with due consideration of the above mentioned remarks, for an international instrument that will really improve the situation of the performers.

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