

# WIPO



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## WIPO COORDINATION COMMITTEE

### Sixty-First (22<sup>nd</sup> Extra-ordinary) Session Geneva, June 15 and 16, 2009

#### FINANCIAL DISCLOSURE/DECLARATION OF INTEREST

*Report by the Director General*

#### A. Background information

1. In mid-2000, the Joint Inspection Unit of the United Nations System (“JIU”) conducted a review of the oversight mechanisms in various international organizations. In 2006, it issued its report “Oversight Lacunae in the United Nations System” (JIU/REP/2006/2). WIPO was one of 12 UN specialized agencies<sup>1</sup> that were examined in respect of various benchmarks that JIU considered as indicators of a satisfactory oversight system. One such indicator is a framework for accountability of officials and staff of international organizations, which it defined as having two main components, viz., ethics and financial disclosure statements.

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<sup>1</sup> The other 11 UN specialized agencies were: Food and Agriculture Organization of the United Nations (“FAO”), International Atomic Energy Agency (“IAEA”), International Civil Aviation Organization (“ICAO”), International Labour Organization (“ILO”), International Maritime Organization (“IMO”), International Telecommunications Union (“ITU”), United Nations Educational, Scientific and Cultural Organization (“UNESCO”), United Nations Industrial Development Organization (“UNIDO”), Universal Postal Union (“UPU”), World Health Organization (“WHO”) and World Meteorological Organization (“WMO”).

2. The JIU suggested standards concerning financial disclosure statements were:
  - (i) established financial disclosure requirements for all staff above D-1 level and all procurement staff, treasury and Professional-level oversight staff;
  - (ii) filing of the financial statements with the ethics office or officer; and
  - (iii) review of the financial disclosure.
  
3. In October 2006, the WIPO Coordination Committee amended WIPO Staff Regulation 1.6 (“Activities and Interests Outside the International Bureau”)<sup>2</sup>, among others, to establish the requirement of a “financial disclosure declaration” for staff members D-1 and above and other categories of staff that may be designated. The amendments also authorized the Director General to establish the necessary procedures for the filing of such information.
  
4. At the session of the Program and Budget Committee (“PBC”) on June 25-28, 2007, the WIPO Secretariat gave a progress report concerning the establishment of a financial disclosure system (WO/PBC/11/16). The PBC noted the Secretariat’s recommendations on this matter, which were the following:
  - (a) follow the UN model and any best practices it can identify;
  - (b) assess and review the existing systems in the UN, the Bretton Woods institutions and other international organizations to identify best practices for application to WIPO procedures;
  - (c) develop procedures before the end of 2007, which will be subject of consultations with Member States; and
  - (d) commence by early 2008 a program of financial disclosure and declaration of conflicts of interest.
  
5. In August 2007, a fact-finding mission was undertaken by the WIPO Secretariat to the offices of the United Nations (“UN”) Headquarters in New York, United Nations Children’s Fund (“UNICEF”), United Nations Development Programme (“UNDP”), World Bank, International Monetary Fund (“IMF”), Inter-American Development Bank (“IADB”) and a few US federal offices, including the US Office of Government Ethics, in line with the Secretariat’s recommendations in paragraph 4(b) above. A mission report was issued in September 2007 with relevant recommendations. Following this report, a working group was established by the then Director General to expeditiously finalize a Financial Disclosure and Declaration Program. A few meetings were held by the working group, but the project fell into hibernation.

**B. Current situation**

6. As part of my priorities to strengthen good governance and accountability within the Secretariat, procedures are hereby proposed to the Member States to address conflict of interest issues, real or apparent, in the Secretariat and to prevent or avoid their occurrence.

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<sup>2</sup> These amendments came into effect on November 1, 2006.

The framework for these procedures is described in the following paragraphs. In preparing this proposal, the Secretariat conducted a brief electronic survey of current practice within the UN Common System to supplement and update data already obtained. Responses from 19 international organizations were received which provide relevant information and have been fully taken into account in the Secretariat's preparatory work.

7. What follows is a recapitulation of the legal basis for the proposed procedures, an explanation of its coverage and an outline of the entire mechanics for its incremental implementation, including follow-up actions.

C. Legal basis

(i) WIPO Staff Regulations and Staff Rules

8. WIPO Staff Regulation 1.6 provides, in relevant part:

“(g) All staff members at the level of D-1 and above, as well as other designated categories, shall be required to file a declaration in a designated form and disclosing designated types of interests in respect of themselves, their spouses and dependent family members. Such declarations shall be filed upon appointment and at designated intervals. Such declarations shall remain confidential.

“(h) Authorizations which the Director General may grant under the provisions of this Regulation may be made subject to such conditions as he deems appropriate, including, where necessary, the requirement to file a declaration as prescribed in paragraph (g), above.

“(i) The Director General shall establish procedures for requests for authorization and for the filing of financial disclosure declarations under this regulation.”

9. It should be noted that Staff Regulation 1.6(i) above uses the phrase “financial disclosure declarations”. The use of this terminology needs clarification in that, according to information received from other international organizations in the UN Common System, they generally distinguish between a declaration of interest and a financial disclosure. The former is simple and short while the latter requires more detailed and specific information concerning the financial interests of an official or staff member. Therefore, for purposes of the present proposal and to align WIPO with current practice, the phrase “financial disclosure declarations” will be understood to refer to both a declaration of interest and a financial disclosure.

10. Other provisions of the WIPO Staff Regulations and Staff Rules relevant to conflicts of interest are: Conduct (Regulation 1.5)<sup>3</sup>, Honors and Gifts (Regulation 1.8)<sup>4</sup> and Information to be Supplied by Staff Members (Rule 4.11.1(d))<sup>5</sup>.

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<sup>3</sup> Staff Regulation 1.5. Staff members shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity which is incompatible with the proper discharge of their duties with the International Bureau. They shall avoid any action, and in particular any public pronouncement, which may adversely reflect on the international civil service or which is incompatible with the integrity, independence and impartiality required by their status. While they are not expected to disregard their national sentiments or their political or religious convictions, they shall at all times act with the reserve and tact incumbent on them by reason of their international status.

(ii) Other statutory provisions

11. The following general provisions provide additional imperative for establishing a financial disclosure declaration program in WIPO.

(a) Convention Establishing WIPO (Article 9(7))

“...The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity.

(b) Relevant extracts from the Standards of Conduct for the International Civil Service (2001)

12. The Standards of Conduct for the International Civil Service (2001) was adopted by the WIPO Coordination Committee at its 48<sup>th</sup> session in September 2002.

“21. It can happen that international civil servants are confronted with a question entailing a conflict of interest; such questions can be very sensitive and need to be treated with care. *Conflict of interest includes circumstances in which international civil servants, directly or indirectly, would appear to benefit improperly, or allow a third party to benefit improperly, from their association in the management or the holding of a financial interest in an enterprise that engages in any business or transaction with the organization.*

“22. There can be no question but that international civil servants should avoid assisting private bodies or persons in their dealings with their organization where this might lead to actual or perceived preferential treatment. This is particularly important in procurement matters or when negotiating prospective employment. *At times, international civil servants may be required to disclose certain personal assets if this is necessary to enable their organizations to make sure that there is no conflict.* They should also voluntarily disclose in advance possible conflicts of interest that arise in the course of carrying out their duties. They should perform their official duties and conduct their private affairs in a manner that preserves and enhances public confidence in their own integrity and that of their organization. The primary obligation of international civil servants is to devote their energies to the work of their organizations. It is therefore improper for international civil servants to engage, without prior authorization, in any outside activity, whether remunerated or not, that interferes with that obligation or is incompatible with their status or conflicts with the interests of the organization. Any questions about this should be referred to the executive head.” (Italics added.)

(c) Relevant extracts from the Code of Ethics for United Nations personnel


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<sup>4</sup> Staff Regulation 1.8. No staff member shall accept any honor, decoration, favor, gift or remuneration from any source external to the International Bureau, without first obtaining the approval of the Director General. Approval shall be granted only where such is not incompatible with the staff member's status as an international civil servant. Where the Director General himself is involved, the approval shall be granted by the Coordination Committee.

<sup>5</sup> Staff Rule 4.11.1(d). The Director General may at any time request a staff member to supply information concerning facts prior to his appointment which are relevant to his suitability, or concerning facts which are relevant to his integrity, conduct and service as a staff member.

13. Additionally, the UN Secretary-General recently approved in March 2009 the Code of Ethics for United Nations personnel (“Code”), which he will submit to the UN General Assembly at its 64<sup>th</sup> session in September 2009 for its consideration and endorsement. Other international organizations, including WIPO, were requested to provide comments and input to the Code at its drafting stage, which the Secretariat did. The Code is a values-based document which the Secretary-General exhorts other international organizations to consider as “a common guide in promoting ethical values and standards”.

14. Once the Code receives the favorable endorsement of the UN General Assembly, I will propose to the WIPO Coordination Committee that it formally adopt the Code and the values and principles that it enshrines, which will serve as the overarching guidelines for all WIPO personnel in promoting a culture of ethical service within the Secretariat and that the Code become an integral part of the WIPO Staff Regulations and Staff Rules as one of its Annexes.

15. The Code provides the following relevant principles specific to the issue of conflict of interest:

**“Conflict of interest**

United Nations personnel shall arrange their private interests in a manner that will prevent actual, potential or apparent conflicts of interest from arising, but if such a conflict does arise between their private interest and their official duties and responsibilities, the conflict shall be disclosed and resolved in favour of the interests of the United Nations.

**“Gifts, Honours, favours, or other benefits**

United Nations personnel shall not solicit or accept gifts, honours, favours and/or other benefits from sources external to the United Nations which may bring into question their independence, impartiality and integrity, unless the acceptance of such gifts, honours, favours and/or benefits is pursuant to applicable policies and regulations.”

**D. Incremental approach**

16. As mentioned in paragraph 9 above, international organizations distinguish between a simple declaration of interest and a full-blown financial disclosure. To enable a more obvious comparison between these two kinds of disclosures, attached are sample forms that other international organizations use. Annex 1 is an abbreviated declaration of interests form from the International Criminal Court. Annex 2 is a declaration of interests form from the World Health Organization which, marginally, requires more detailed information from the staff member compared to Annex 1. Annex 3 is the financial disclosure form from the International Monetary Fund. Annexes 1 and 2 are dealt with in-house by these international organizations while the review and analysis of Annex 3 is outsourced to a private company<sup>6</sup>.

17. In developing a financial disclosure program in the Secretariat, it is proposed that an incremental approach be adopted. As a first step, it is proposed that a simple declaration of interest be implemented that specifically addresses the statutory requirements under the WIPO Staff Regulations and Staff Rules, in particular, Staff Regulation 1.6, which form part of the

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<sup>6</sup> The UN, World Bank and IMF outsource the review and analysis of financial disclosures to PriceWaterhouse Coopers, with the latter two considering in-house review once the current contract with PriceWaterhouse Coopers expires, mainly due to cost considerations.

conditions of employment of all staff members. Such declaration of interest will be required from the D-1 level and above. These are WIPO officials who help shape policy, possess independent decision-making authority and generally, represent the Organization. There are currently 54 staff members at the D-1 level and above. In addition, certain positions below the D-1 level that pose inherent functional risks will also be subject to the filing requirement. These are the Head of Budget, Head of Finance Services and Head of Evaluation and Contract Administration.

18. Within the following year and taking into account the implementation of the first phase and any lessons learned therefrom, consideration will be given towards developing an extensive financial disclosure system that may be modeled after the United Nations and the Bretton Woods institutions. A report on such follow-up action will be made by the Director General at the annual sessions of the Assemblies of the Member States of WIPO in 2010.

19. If the incremental approach is approved by the Member States, attached for their consideration, as Annex 4 to this document, are the Implementing Guidelines for the submission of the WIPO Declaration of Interest Form, including the form itself. The entirety of Annex 4 will be issued by the Director General through an Office Instruction.

20. The Director General also wishes to draw to the attention of the Coordination Committee that, in the interim, he has recently assigned the responsibilities of the Ethics Officer to the Office of the Legal Counsel.

*21. The WIPO Coordination Committee is invited to approve the proposal contained in paragraph 17 above, and to note the contents of this document, including the information in paragraphs 18 and 20, as well as the documents mentioned in paragraph 19.*

[Annexes follow]