

WIPO Coordination Committee

Sixty-Fourth (23rd Extraordinary) Session
Geneva, July 14, 2011

REPORT OF THE CHAIR OF THE WIPO COORDINATION COMMITTEE ON THE
EXTENT OF RESOLUTION OF THE ISSUES RAISED BY THE PRESIDENT OF
THE COUNCIL OF THE WIPO STAFF ASSOCIATION AT THE COORDINATION
COMMITTEE MEETING OF SEPTEMBER 29, 2010

prepared by the Secretariat

The Chair of the WIPO Coordination Committee is submitting a working document in relation to agenda item 3 for the Sixty-Fourth (23rd Extraordinary) Session of the WIPO Coordination Committee.

[Document follows]

Report of the Chair of the WIPO Coordination Committee on the extent of resolution of the Issues raised by the President of the Council of the WIPO Staff Association at the Coordination Committee meeting of September 29, 2010

Background

At the meeting of the Coordination Committee of September 29, 2010, the President of the Council of the WIPO Staff Association (PCSA) made a statement to member states which included several charges, many of which were critical of the administration's human resource management and its restructuring exercise in the main. The Committee in its report dated September 29, 2010 (WO/CC/63/8) recommended at paragraph 95 that the statement by the President of the Council of the Staff Association would be distributed, the Secretariat would provide its written response, the Coordination Committee would give the WIPO management an opportunity to resolve issues internally, and if any remained unresolved, there was the possibility of convening a meeting of the Coordination Committee in the spring.

All the recommended steps were taken except the last step of determining whether the matters were resolved. After some efforts by the Chair to determine whether the issues were resolved or were in the process of being resolved, did not bear fruit (hopefully by obtaining a consensus statement) the Chair decided that she would use the statement of the President of the WIPO Staff Association (PCSA) of September 29 and the response of the Director General (DG) of April 4, 2011 to determine whether in her view the matters were either resolved or were sufficiently in the process of resolution.

The Chair determined that given the inability to obtain agreement on the extent of resolution of the issues, that a meeting of the Coordination Committee would be held. She would prepare a report to the Committee. A request was made to the WIPO administration and a date of July 14 was obtained. The date unfortunately was not in the spring as was originally hoped.

The following were the basis for assessing the extent of resolution of the issues

1. There should be no attempt by the Coordination Committee to micro-manage the organization
2. In order to examine the extent of resolution in the cited matters, new matters would not be considered in the assessment
3. It must be acknowledged that when one party or other does not obtain its desire that does not mean that the matter has not been resolved as long as due process has been observed and the roles of the parties in making their cases have been performed. It simply means that it has not been resolved in favour of one or other of the parties.
4. That once a charge has been shown to be incorrectly or inaccurately made, it joins the list of those which have been dealt with or resolved.

Approach to Evaluation of resolution of the issues.

The process

The charges were grouped and the paragraphs of the PCSA statement were numbered sequentially for easy reference (see Annex II) and compared with the response by the DG (by numbered paragraph placed in bold) (see Annex III). For each point, the Chair assessed the extent of resolution based on the response. Using a system of listing, there were 37 charges. Areas described as level 1 areas were those easily verifiable. Areas requiring greater judgment were described as level 2 issues.

Level 1 issues

The findings were as follows:

1. Misrepresentation (MM) [12 cases] (see Annex I for acronyms used)

There were 12 misrepresentations of fact observed. These areas were confirmed to have been misrepresented based on the response from the Director General dated April 4, 2011. Details of the areas of misrepresentation (direct and implied) can be obtained by comparison of the statements with the responses. See (para 9 – **Para 3 and 4**) (para 12 – **para 11**) (para 15- **para 7**) (para 17 – **para 14**) (para 17- **para 8**) (para18 – **para 17**) (para 20 – **para 18**), (para 31- **para 17**)(para25 – **para 21**) (para 26- **para 23 and 24**), (para 34 – **para 28**) and (para 38 - **para 33**) of PCSA statement respectively. These issues dealt mainly with whether or not the Staff Council (SC) had been consulted.

2. Consultations with previous Chair or staff council not recognized (CpC)[3 cases]

There was a tendency for the statement of charges to discount consultation by its predecessor Chair or staff council and to conclude that where the matter was discussed with the previous Chair or staff council, then there was no consultation. However, in matters of an ongoing entity, it is not the person but the organ that is relevant. There were at least 3 cases where consultation of the staff council was denied (or denial implied) by the PCSA when in fact there was consultation with the previous staff council. See (para 9 – **para 3, 4 and 5**), (para 18 – **para 17**) and (para 34- **para 28**) of PCSA Statement and Responses respectively.

3. Cases of Consultation not required as per regulations (CNRperReg)[2 cases]

There were cases where the administration was accused of lack of consultation, but where guidelines indicate that in certain types of circumstances there was no requirement for consultation. Lateral transfers fell into this category. (para 17 – **para 14**) and (para 35- **para 29**) in PCSA statement and the Response respectively.

4. *Questioning of Decisions agreed by the Coordination Committee and other higher organs of WIPO for execution by management (QDof CC) [2 cases]*

Some of the areas questioned were decisions made by the Coordination Committee, for example, the creation of a specified number of posts for long serving employees on short term contracts, and agreement by Coordination Committee to a five year period for implementation of same. See paragraphs 12,13 and 14 compared with **para 9 and 10, 11 and 13 of the Response.**

5. *Pre-emptive Criticism (PC) [2 cases]*

There were pre-emptive criticisms, i.e. made before waiting to see what the administration was going to do, in at least two cases: Changes to staff rules (Para 10) of statement compared with **para 5 of Response**; and development of ethics office. (para 35) compared with **para 29 of the Response.** (The Staff Association also expressed the wish that rules be enacted by the Coordination Committee “so that this legislative body fully conserves its mandate to oversee the ethics of the Organization’s internal bodies”. In addition to not giving the Ethics Office time to work as mentioned above, it is not clear from examining Article 8 of the instrument setting up the Coordination Committee that this is one of the mandates of the Committee. Greater clarity is needed here.)

6. *Criticism no longer relevant (CNLR)[3cases]*

a) Other items criticized but where evolving events have made them no longer relevant: Resumption of publication service concerning appointments (para 23) compared with **para 20 of Response.**

b) Appointment of Internal Auditor; This was resolved at the meeting of the Coordination Committee of September 29, 2010, by way of a shortened renewal term. This is no longer an issue and the incumbent is due to leave at year end.

c) Lack of information on status of IT Security issue (par 21).**Response at Para 19.**

The administration offers the explanation that there are confidentiality issues involved and the results of the investigations have been revealed to the persons involved. **See para 19 of Response.** In addition, a report dated December 17, 2010 was issued to all staff members. Results of the investigations showed that no evidence could be found. It seems that the cases are closed.

These items account for a total of 24 of the 37 listed statements of criticism

7. *There were 4 cases questioning normal areas of Management Responsibility and Authority (MR) [4 cases]*

- a) Consultation relating to the abolition of posts. (para 15) This is normally an area of management responsibility in most organizations. See **Response para 7**.
- b) Redesigning of posts and downgrading of posts (para 15) (para 18). This is normally an area of management responsibility. See **Response para 8, 14, 15**.
- c) Criticism of use of a classification specialist and the role of Post Classification Committee. (para 15.) See **Response at para 24** indicating consultation with the Post Classification Committee on which the SC is represented.
- d) Concern about reclassification of posts generally (para 27). According to **para 23 and 24 of the Response** the agreed procedure was used, the initiative was that of the department, SC's representative was involved; and external specialists were appropriately used.

The four areas mentioned would in most organizations be considered areas for management decision making. It is assumed that there is acceptance that the ultimate responsibility for management, for restructuring and for implementation of the strategic realignment process is that of management.

When these 4 explanations are taken into account this accounts for 28 of the 37 charges.

Other Issues

8. Filling of posts based on seniority as a major factor (PboSen)[1 case]

The view was expressed that seniority should be a key area of determining placement into vacant positions. Most forward looking organizations do not adhere to these principles. One might question whether this is a justifiable request or in keeping with the principles of an institution which wishes to be a premier institution. (para14) **See para 6 and 7 of Response.** (The Council also called upon the Coordination Committee to amend a proposed document WO/CC/63/5 and to consider that the criteria of seniority and satisfactory performance should prevail over any consideration in the process of filling the vacant posts. It is suggested that the criterion of seniority should only be considered when the quality of the candidates is equally matched.) The goals and strategic direction of the organization would also normally be considered.

9. Consequential matters (CM) (1 case)

Some charges were consequential on other decisions

For example, given that a decision was taken to deal with the issue of creation of posts for long serving employees on short term contracts over a 5 year period, then as a consequence allowances would be delayed as well. This should probably have been read as a single issue so as to avoid duplication. (para 13)

This brings to 30 the number of charges which can be considered to have been adequately responded to (by virtue of initial misrepresentation etc) or otherwise resolved. Four (4) of these are about management responsibility and authority.

Level 2 Areas

While the above are areas of misplaced criticism or areas where criticized areas were corrected by management, or where facts and understanding of roles were misunderstood, and similar types of cases as set out in 1-9 above, these were fairly straightforward. However, there are a few areas **where greater judgment is required** in determining whether the issues are resolved, or are in the course of resolution. These will be referred to as level 2 areas.

A) Criticisms were made in areas where the administration's performance had far exceeded previous norms. These included at least 2 areas: geographical distribution (para 25) See **Para 21 and 22 of Response**, and classification requests handled (para 27 compared with **para 24 of Response**.) One might ask if these are reasonable criticisms, in light of the fact that there were significant improvements in these areas of performance of the organization. However, improved information feedback might have been helpful in avoiding these charges being made. (2 cases)

B) Areas which should not have come to the Coordination Committee.

i) Re assessment criteria being "difficult to adapt to certain sectors". The Coordination Committee is probably not best placed to deal with such specifics. This seems to be a technical matter which the particular department or unit might better work through with the appropriate persons or department head. [1 case)], (para 19) **See para 14 and 15 of Response**.

ii) Observations were made at para 10 of the PCSA statement with respect to contracts, where a list of clauses were itemized that the SC would wish to see in contracts. These should not be treated as specific charges; neither were they described as charges but more as cautions. No specific cases were cited. These were therefore not included as matters to be resolved. They seem to be something desired in employment contracts and could therefore be negotiated by the contracting parties.

iii) Similarly in para 26 of PCSA statement, general statements were made without reference to any cases. These are not considered to be charges. See **Response at para 22**.

C) Charge of racial discrimination (1 case)

The administration categorically denies the charge of racial discrimination by a senior official and revealed that the case in point occurred among staff council members. (para 38 of PCSA statement). **See para 33 of Response**.

D) There is concern about the increased number of appeals and grievances including to the ILO Administrative Tribunal as a sign of dissatisfaction. In this regard it might be useful to be instructed by some of the decisions that are being awaited. (para 38) See **Para 31 of Response**,

concerning adapting to change. The above is a statistic which could be indicative of a problem or may be indicative of rapid change, and is open to interpretation. The outcomes are more important than the number of appeals and the matter can be reverted to when there is information on the results of the cases cited and the reasons given for the decisions. In the interim this could be removed from the list of issues to be resolved until there is information on the outcome of the appeals.

When these level 2 areas are removed from the issues still to be resolved for the reasons outlined above, this leaves 4 issues.

The chair offers comments on one of the remaining 4 criticisms.

Authority of the Director General (para 10) of PCSA's statement.

A Director General, as the title implies, is expected to direct the general affairs of the organization. This requires adequate authority. The staff council's role is advisory in areas that relate to its function. Since it is not an executive arm of the organization it is important for the staff council to work collaboratively with management. However, there will always be areas that are under the authority of management or at the discretion of management. In addition the administration has the responsibility to run the organization subject to appropriate guidelines, observed approvals obtained and endorsement of actions where necessary. Compared with governance structures in other organizations the authority of the DG did not appear to be unusual . This was verifiable. Available information suggests that there are several advisory committees in WIPO on which the WIPO staff council is represented. Preliminary checks suggest that this compares favourably with other organizations in Geneva. (3 organizations were surveyed). Available information also suggests that the recommendations of advisory committees are generally accepted. Senior management is expected to take an organization-wide perspective consistent with the goals, plans and strategic direction of the organization in making final decisions. The staff council might, but should not be expected to be responsible for bringing that perspective to issues. Decisions may therefore sometimes differ from recommendations for these reasons. It might be helpful to avoid deeming such issues to be unsettled matters.

It might be useful also to consider whether an organization can be run without vesting its head with adequate authority, and if it is agreed that this is not possible, whether the authority of the DG is something the organization should question. It is suggested that the authority of the DG is not a problem to be resolved and that the authority of a CEO is normally balanced by a voice for staff in matters that concern them, as there must be a mechanism for suggestions and recommendations to come from staff. There is every evidence that this is so. There is likely also, to be agreement that it is desirable that the appropriate process be respected, misrepresentation be avoided and a less public problem-solving method found.

The remaining three areas appear to need further resolution:

1. Discontinuation of promotion on merit.
2. Inadequate communication.
3. The case of the two-year suspension which has been too long unresolved.

The responses to the three issues are referenced below:

RE 1. Criticism about the discontinuation of promotion on merit. (para 30). The administration states that it is actively seeking to find alternative ways of rewarding outstanding performance. **(See para 25 of Response)**

RE 2. With respect to concerns about communication (para 19) the administration acknowledges that there is need for improved communication. The administration plans to have more frequent meetings between staff and supervisors particularly to explain the new system and to discuss performance. **(See para 16 of Response)**

RE 3. There is concern about the case of the two-year suspension too long unresolved. (para 39). There were acknowledged delays, but it appears that progress is being made on this issue as well. **(see para 34 of Response)**

The Chair offers comments on one of the remaining three areas – communication.

Communication and buy-in

Communication is probably the source of much of the problem. Despite the efficient and forward-looking work of the WIPO Senior Management, more still needs to be done in communicating with staff so that there is greater buy-in for the objectives of the organization. There is a need for clearer appreciation of the relative roles of management and of staff. Also, greater efforts need to be made to get staff to accept that, unless the institution is to become out-dated, changes are necessary in order to allow it to prepare itself for the 21st century and for the global challenges ahead. However, there must be appreciation of the fact by management, that any individual who is a casualty of restructuring for the better future of the organization, must feel hard done by. This is a natural consequence which is overcome by time and redeployment, and where possible, with assistance from the HR department in the relocation exercise. To this extent, in these situations the organization might wish to consider going beyond communication, in the sense of relaying information, to that of aiming for buy-in to the objectives of the restructuring exercise. This requires consistent effort.

Conclusion

The Chair therefore

- a) advises that when one takes account of the issues which were not based on fact, or otherwise did not take the full situation into account, or were corrected, or were issues which

correctly should be dealt with by management, and similar type instances as detailed in the document, that most of the remaining issues which required attention have been addressed, but that progress in a few areas has been incomplete. An organization is a living organism and issues will constantly arise. Hence 100 percent resolution is unusual in any organization as there is always some new aspect which can be introduced to any issue or some new issue which can arise. The Chair considers that there has been resolution on most of the issues and that the remaining issues are being addressed.

b) notes the need for improved communication and greater buy-in for the restructuring exercise, which seems to be at the root of many of the issues raised. However, grappling with concerns about job security while executing a restructuring exercise necessary for the survival of the institution as a premier institution is likely to be continue to be a challenge, despite the resolution of most of the issues identified. However, it is expected that if greater buy-in is achieved for the rapid changes taking place, then an environment of greater mutual trust should develop and staff will turn to management to discuss issues and to find solutions rather than to the Coordination Committee.

The Coordination Committee is invited to note the above Report.

Chair,

WIPO Coordination Committee

[Annexes follow]

ANNEX I

Explanatory code used

MM	=	Misrepresentation (due to Misinformation or incomplete Information)	12
CpC	=	Consultation with previous Chair	3
CNRper Reg	=	Consultation not required as per regulation	2
QDof CC	=	Questioning Execution of Decisions approved for action by CC	2
PC	=	Pre-emptive Criticism	2
CNLR	=	Criticism no longer relevant	3
MR	=	Management responsibility	4
PboSen	=	Post based on seniority	1
CM	=	Consequential matters and not additional issue	1
			30

Level 2 issues - requiring judgment and interpretation or deduction

(1) Criticisms where performance far exceeded previous norms	2
(2) Matters of opinion on administrative issues which should not have come to the Coor Ctee	2
(3) Racial discrimination - denied.	1
(4) Number of cases before the ILO – Since the results of the cases are more indicative than the number of cases –it is suggested that judgment on the number of cases be deferred and the results and comments are awaited.	1
The authority of the DG - not an issue - A CEO must have adequate authority.	1
37	

Areas where further resolution/work appear necessary (3)

- Concern about promotion on merit. The explanation of the shift to rank-in-post may not be sufficient. It would help to get staff to see its merits. Management’s undertaking in **para 25 of the Response** to find ways to recognize good performance suggests that this matter is being further addressed.
- Concern about 2 cases of suspension too long unresolved. Still incomplete. These are reasonable concerns.
- communication in the sense of and buy-in to the restructuring needs to be enhanced. The need for improved communication has also been acknowledged by Management.

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ORIGINAL: ENGLISH
DATE: JULY 8, 2011

STATEMENT BY MR. AZZEDDINE MONCEF KATEB, PRESIDENT OF THE WIPO
STAFF ASSOCIATION, TO THE FORTY-EIGHTH SERIES OF MEETINGS OF THE
ASSEMBLIES OF THE MEMBER STATES OF WIPO

*Annex I of document WO/CC/63/8**

Geneva, September 22 to 29, 2010

Your Excellency, Chair of the Coordination Committee,
Distinguished Delegates,
Director General,
Ladies and Gentlemen,
Dear colleagues,

1. It is an honor for me to be able to address you at this important gathering today, in my capacity as President of the Council of the WIPO Staff Association. I am aware of my responsibilities and I wish to fulfill them with the appropriate respect and dignity, given the trust that my colleagues have placed in me, as I address you and share with your their aspirations, concerns and hopes. As I begin this address, please allow me, your Excellency, Chair of the Coordination Committee, to warmly congratulate you on behalf of all my colleagues on your election as Chair of this organ (legislative body set up pursuant to Article 8 of the Convention establishing the World Intellectual Property Organization, concluded in Stockholm on 14 July 1967), and to wish you success in your sessions and deliberations.

* In this document, paragraph numbering has been added, as referred to in the Report of the Chair of the WIPO Coordination Committee (document WO/CC/64/2).

2. The WIPO Staff Association currently has six hundred and sixty-three (663) members. In relation to the one thousand and forty-nine (1049) posts approved in the budget of the current financial year, the number of members represents 63 per cent of posts. The Staff Association is a body elected by the members of the Staff Association and, under the terms of Article 8.1 of the Staff Regulations and Rules, is a statutory representative body of the Association aimed at defending staff interests in dealings with the Director General and the different representatives.
3. A year has passed since the previous meeting of the Coordination Committee, and the year has been a rich and eventful time.
4. Five major events have marked the past year:
 - 1- New draft Staff Regulations and Rules (Doc WO/CC/62/2) were distributed to Member States at the sixty-second (62) session of the Coordination Committee. A provisional consultation schedule was drawn up, and was initially intended to lead to a meeting of the Coordination Committee to discuss and adopt the final proposed draft.
 - 2- Continued implementation of the Voluntary Separation Program (VSP) approved by Member States (Doc WO/CC/61/3 and WO/CC/61/3 ADD) for officials with a permanent contract or fixed-term contract, which ran as initially scheduled until June 30, 2010.
 - 3- Sector-by-sector restructuring once the new senior management team had taken office on December 1, 2009 and the Strategic Realignment Program had been adopted.
 - 4- Implementation of the second phase of the Performance Management and Staff Development System (PMSDS).
 - 5- Drafting and publication of an Investigation Manual.
9. In terms of the new draft Staff Regulations and Rules, the Staff Association welcomes the establishment of a new consultation mechanism, namely an advisory group with equal representation of four people appointed by the Administration and four individuals elected by the staff. The Council is nonetheless concerned by the approach taken in completing the initial draft, as well as by the substantive provisions that the Administration initially intended to implement from 2011.
10. It is with considerable interest and extreme vigilance that the Staff Association, in close collaboration with the advisory group, will follow the results that are soon to be launched. The Council also wishes to point out, at this stage, that the principles of acquired rights and the non-retroactivity of new provisions (where these are less favorable than current ones) must be clearly respected. Similarly, transitional provisions should also be introduced, whenever necessary, so as to respect the status of ongoing contracts and their associated rights. In addition, and very importantly, the draft revised Staff Regulations and Rules appears to be leaving too much discretionary power in the hands of the Director General without adequate check and balances which would regulate abuse, if any, of those discretionary powers. Furthermore, we are also concerned that unlike the present situation, several key amendments to the Staff Rules are proposed to come into effect without prior approval and scrutiny of the Coordination Committee.
11. The implementation of the Voluntary Separation Program (VSP), as approved by Member States, ended on June 30, 2010: the Administration has reported that a total of eighty-seven (87) officials were accepted into the program, at an overall cost of twenty (20) million Swiss francs (DOC WO/CC/63/4).
12. The Staff Association considers that it would be somewhat premature to draw all the relevant conclusions following the implementation of the Voluntary Separation Program (VSP). In the light of the reported statistics, however, the Council fears that the total number of posts freed up

by the program has already been absorbed by the recruitment of 104 temporary employees in under two years. Nevertheless, the Council hopes that the Organization will sensibly use any opportunities offered by the freed up posts to regularize, as a priority, the status of as many long-standing temporary colleagues as possible, since their situation has been uncertain for many years and their duties relate to essential activities and ongoing programs.

13. Indeed, the Council considers that long-standing temporary employees have been doubly penalized: first, the promise to regularize their situation has been repeatedly put on hold and second, the system of allowances applied to them remains unfair and inequitable, and deprives them of the allowances due to them in the form of family benefits. Paradoxically, many such people would be unable to benefit from these allowances even if they were awarded now or soon, because their children have already reached or exceeded the age limit established for receiving such allowances.
14. As for the proposal in document WO/CC/63/5 relating to a regularization strategy for long-standing temporary employees, the Council notes that the principle of delaying its implementation (for a total of around thirty (30) posts) until the 2012 financial year is only a partial response to the situation faced by long-standing temporary colleagues. On June 16 and 24, 2010, the Council approached the Director General on the matter but was met with an incomprehensible refusal, particularly considering the resulting financial impact. The Council considers that our colleagues have endured enough suffering and uncertainty, and that they simply cannot be subjected to more of the same. The Staff Association's position on the subject is set out in an annex to this address. The Council invites the Coordination Committee to amend the proposed document and to consider that the criteria of seniority and of satisfactory performance and service should prevail on any other consideration in the process of filling the vacant posts.
15. On a final point concerning the implications of the Voluntary Separation Program, the Staff Association remains concerned at having been excluded from the consultation process relating to the abolition of certain posts, the assignment of posts by sectors, programs and divisions, but mainly the category downgrading of certain posts to be filled. This is despite the fact that, pursuant to the statutory provisions in force (and particularly Article 2.1 of the Staff Regulations and Rules), this task comes under the responsibility of the Post Classification Committee.
16. The sector-by-sector restructuring following the adoption of the Strategic Realignment Program continued throughout the year and Office Instructions were published until the end of July 2010.
17. At present, the Staff Association is analyzing the content of information it has received and will soon submit a detailed report on the subject to the Director General. The Council does, however, wish to communicate its concern about the creation of new posts, some of which seem to have been organized without a prior selection procedure, and others freed up by moving staff members and filled by other colleagues of the same grade with no selection procedure, mainly in the form of downgradings that have affected the duties or grades of officials, including at least one individual who had been an interim Director for over eight (8) years. The Staff Association wishes to inform Member States of the deep sense of humiliation felt by our colleagues, and regrets this move that is not conducive to respect for the dignity of colleagues and that, in addition, causes them unjustified harm.
18. The Staff Association wishes to recall that it was solemnly informed during the second half of 2008 that there will be no witch hunting and settling of old scores. Yet we have reasons to believe that, among other things, the process of strategic realignment has been conducted, without any involvement of the Staff Association, in a manner which has favored certain colleagues and punished and humiliated others for no justifiable reasons. Division was downgraded to section; sections and units were closed in an arbitrary and high handed manner and the incumbents were assigned to inferior tasks and responsibilities; and in one instance a

successful and useful program was discontinued and contrary to a decision of member states has not yet been reinstated.

19. Implementation of the second phase of the new Performance Management and Staff Development System (PMSDS) is ongoing. The Staff Association is closely following the remarks and other requests received from many colleagues. Some of these directly relate to the assessment criteria that are difficult to adapt to certain sectors. Other more worrying comments relate to the attitudes linked to the lack of communication between officials and their superiors. At this stage, the Council is gathering information on the cases reported, and wishes to propose readjustments to the Administration once the appropriate conclusions have been drawn.
20. The recent dissemination of the procedural manual for investigations has raised many concerns, including those around the rights and protection of officials who may be investigated, and more particularly their right to benefit from the assistance of a person of their choice and/or a legal advisor, the obligatory or optional nature of the manual and its actual date of entry into force, to the right of an official who is a subject of an investigation to receive the final report and to be able to submit his or her comments, to the privileges of the Director General and the Internal Auditor with respect to the designation of investigators. The Staff Association considers the outstanding issues to be particularly important and has decided to submit an appeal to repeal the promulgation process of the manual, as well as its substantive provisions.
21. Furthermore, the Council states that, to date, the staff have received no information on the computer violations suffered by many colleagues in 2008, during which time the Internal Auditor's services were called upon. Similarly, no information has been received about officials who received defamatory and threatening letters and e-mails during 2008. The Staff Association considers that the opacity surrounding these investigations to be particularly disturbing and has created a situation of growing suspicion. This uneasy situation has grown considerably and some colleagues have decided to bring their grievances outside the Organization before the judiciary police of the host country. Even with criminal complaints who are subject to national law, these colleagues have not measured any more progress despite the means at the disposal of the judiciary police. This situation is all the more disturbing because these officials are apparently now facing something akin to a denial of justice. It is within this particularly worrisome context that the Staff Association was apprised of a document concerning a proposal to extend the mandate of the Internal Auditor, in spite of a negative recommendation by the Audit Committee.
22. The Staff Association insistently invites the Member States to consider the staff's legitimate preoccupations and concerns with respect to this proposal.
23. Alongside this, questions relating to the recruitment process, post reclassification and other promotions continue to concern the Staff Association. Since November 2009, the Administration has stopped distributing information circulars about staff movements and the recruitment of consultants, as well as the results of the various posts advertised with a selection procedure. The Administration has attempted to attribute the change to the fact that circulars on the sector-by-sector reorganization were being prepared, and stated that the usual procedure would soon be resumed.
24. The Staff Association disapproves of this situation, as it gives free rein to rumors. The same can be said of the fact that recruitment results are no longer announced, because officials occupy advertised posts that have been filled, thus depriving those wishing to appeal of the opportunity to launch a procedure on the basis of the announced result.
25. Besides this, the lack of communication about selection procedures in the professional and higher categories makes it impossible to monitor statistics about respect for the principle of equitable geographical distribution by which the selection procedure is bound.

26. Some recent recruitments were carried out disregarding the most basic rules laid down in job vacancy announcements. This practice of favoritism and cronyism is unacceptable and is promoting a deep sense of unease among staff at the current time. Other recruitments are political ones that contravene the most basic principles of international public service, particularly that of its independence. I take this opportunity to recall that the resources of this organization are owned by some seven (7) billion citizens spread over 184 countries. It is important to remember at all times that we all have a fiduciary duty and obligation to the ultimate masters and owners of this Organization and must ensure at all times that those resources are not misused or used for personal ends. It goes without saying that this principle applies to all including the representatives of the Member States, the Director General and each and every staff member.
27. The work of the Post Classification Committee set up under Article 2.1 of the Staff Regulations and Rules has progressed with no communication received about the results of reclassification measures approved, or the decisions to reject requests submitted. This lack of transparency is extremely damaging to the credibility of the procedure followed.
28. In addition, the Staff Association notes that, contrary to the instruction contained at the end of Article 2.1 of the Staff Regulations and Rules that "the grading standards, fixing the level of duties and responsibilities and the requisite qualifications, shall be brought to the notice of the staff", those standards were never brought to the notice of staff. This is a violation of the principle of equal treatment for officials, with which strict compliance is always reiterated in the judgments handed down by the ILO Administrative Tribunal.
29. The Staff Association considers that this casts doubt on the credibility of the entire post reclassification process.
30. The removal of the merit-based promotion system and the promise to replace it with a scheme based on other criteria (OI 46/2008) remain pending, and poses the problem of consistency of promotions applied following the post reclassification procedure. Indeed, the lack of a sitting advisory committee begs the question as to which body has the last word on reclassifications applied. There is currently no Office Instruction on this subject.
31. Many officials are wondering why the new Performance Management and Staff Development System (PMSDS) contains a component which identifies officials who do not achieve their allocated objectives, but does not identify people in the opposite circumstances, even though this might motivate and encourage staff more. This is despite the fact that sanctions are automatic when these same officials do not achieve their assigned objectives.
32. This inequity is of concern to officials and exposes them to mistakes that are more than theoretical. The Staff Association wishes the appropriate readjustments to be made as soon as possible.
33. A similarly important subject is also causing considerable concern: internal justice mechanisms.
34. The post of mediator, one of the key mechanisms of the internal justice system, was not filled in accordance with the applicable standards. Given the particularly sensitive nature of the post, the procedures in force (Office Instructions 18/2006 and 32/2009, paragraph 3) state that the post of mediator should be filled in consultation with the Staff Association. As this procedure was not respected, the Council cannot accept having been excluded from the procedure in force for no reason.
35. An Ethics Office has also been created within the Office of the Director General, which also appointed the head of this Office without a selection procedure, despite the fact that it is a new post. Besides the fact that the definition of ethics needs to be further clarified, the Staff Association notes its exclusion from the prior consultation procedure (contrary to the provisions of Article 8.1.3 of the Staff Regulations and Rules), and wonders why it is repeatedly

marginalized (this is the fifth time since its election in April 2010). The Council strongly deplores this situation, and has unanimously decided to launch an action to overturn the appointment that has been made.

36. Given the sensitive nature of an issue relating to ethics, the Council considers that only the very widest kind of consultative approach is likely to promote the gradual introduction of a genuine culture of ethics at all levels, prevent problems such as any kind of conflict of interest within and outside the Organization, and encourage the introduction of measures that prevent any kind of reprisals against officials who report unethical practice, as well as the formulation of rules that prevent and deal with cases of abuse of power, fraud and corruption.
37. With this in mind, and in accordance with the recommendations from the report produced by the United Nations Joint Inspection Unit and published on June 10, 2010, the Staff Association strongly wishes these rules to be enacted by the Coordination Committee, so that this legislative body fully conserves its mandate to oversee the ethics of the Organization's internal bodies.
38. At the beginning of the year we were informed by a much concerned HRMD Director that there were some seventy (70) grievances pending before the various organs of justice including the ILO Administrative Tribunal. This is a very high number and we must all collectively address the causes for such a high level of dissatisfaction. I also regret to inform you that during our Staff Assemblies this year, allegations of racism, discrimination, degrading treatment and obstructions of justice was raised against officials in high places. The Staff Association is willing to work hand in hand with the Administration and the member states to uproot such unfortunate practices.]
39. The Staff Association would also like to inform Member States that it remains particularly concerned by the cases of two colleagues who have been suspended for two years, and whose files have not yet been submitted to the Joint Advisory Committee on disciplinary matters.
40. The Council considers that, whatever the nature of the administrative misconduct of which they stand accused and, where relevant, the sanction they might incur, two years of professional life spent wondering and being on the receiving end of accusing glances or compassion surely represents the very opposite of the notion of justice and can be devastating. In the legislation of all member countries, the key principle of innocence until proven guilty is fully enshrined, yet here it is clearly completely denied or at least seriously questioned.
41. Your Excellency, in concluding my statement, I would like to once again underline the critical importance of fair play, respect, dignity, justice and humanity in keeping the morale high and without which the core values of service orientation, working as one, accountability for results and social and governance responsibility will remain hollow words and concepts.
42. Your Excellency, Chair of the Coordination Committee, Honorable Delegates, Ladies and Gentlemen, on behalf of the Staff Association I thank you for allowing me to address you and share with you the major concerns of our Organization's officials.

[Annex III follows]



ORIGINAL: ENGLISH
DATE: APRIL 4, 2011

Response to the Statement made by the President of the Council of the WIPO Staff Association on September 27, 2010

Note prepared by the Secretariat

1. This note is a response by the Administration of the World Intellectual Property Organization (WIPO) to the statement which was made by the President of the Council of the WIPO Staff Association to Member States of the Coordination Committee on September 27, 2010.
2. The Administration has limited its comments to central or systemic issues raised in the statement, and the absence of comment on any individual points should not be interpreted as implying their acceptance.

Revision to the Staff Regulations and Staff Rules

3. The Staff Council's statement expresses several concerns with regard to the previously proposed revisions to the Staff Regulations and Staff Rules, which resulted from recommendations made by the previous Working Group in 2009. The statement alludes to several specific issues contained within that original draft proposal.
4. The 2009 Working Group was a joint management-staff working group, which included three members of the then Staff Council. The staff representatives participated fully in developing the recommendations, with the support of the then Staff Council. The comments by the current Staff Council, therefore, amount to a repudiation of the work carried out by the previous Staff Council.
5. Nevertheless, in order to address the concerns raised by the new Staff Council, and to be able to advance the important work of revising the Staff Regulations and Staff Rules, the Director General established a new joint Consultative Group¹ in 2010. This includes

¹ WO/CC/63/2, *Progress Report on the Revision of the WIPO Staff Regulations and Staff Rules*, June 23, 2010

three current Staff Council members and a fourth staff representative. The Consultative Group provides the mechanism for addressing all the concerns identified by the Staff Council, and for developing a revised proposal for submission to the Member States.

Voluntary Separation Program (VSP)

6. The Staff Council's statement expresses the view that the Staff Council should have been consulted on decisions relating to posts which were vacated by staff leaving on the VSP, notably with respect to how the vacated posts would be used within the restructuring and realignment process. The statement also questions the process through which some of the vacated posts were subsequently reclassified and advertised at a lower grade.
7. The decision on the use of vacated posts is a management decision, based on organizational needs. As far as the VSP application process was concerned, each application was reviewed by the VSP Evaluation Group, which included a staff representative designated by the Staff Council. In making its recommendations to the Director General, the Evaluation Group took account of information submitted by the Program Managers with respect to the needs and proposed use of the posts which would be vacated. Final decisions regarding the use of the 87 vacated posts were made by the Director General with his Senior Management Team. A report on the implementation of the VSP was presented to the Coordination Committee in document WO/CC/63/3².
8. Some of the posts vacated by staff who took early retirement or separation under the VSP scheme were indeed redesigned to better match the evolving organizational needs and, as a result, used to recruit for more junior positions rather than for a replacement with the same profile. This is fully consistent with responsible HR and budgetary management. With regard to redesigned posts, the standard WIPO procedure was followed, whereby a job description for each vacated post was prepared by the operational unit concerned, based on the revised, required duties and competencies of the post to be filled. The job descriptions were classified by a classification specialist prior to publication of a vacancy announcement.

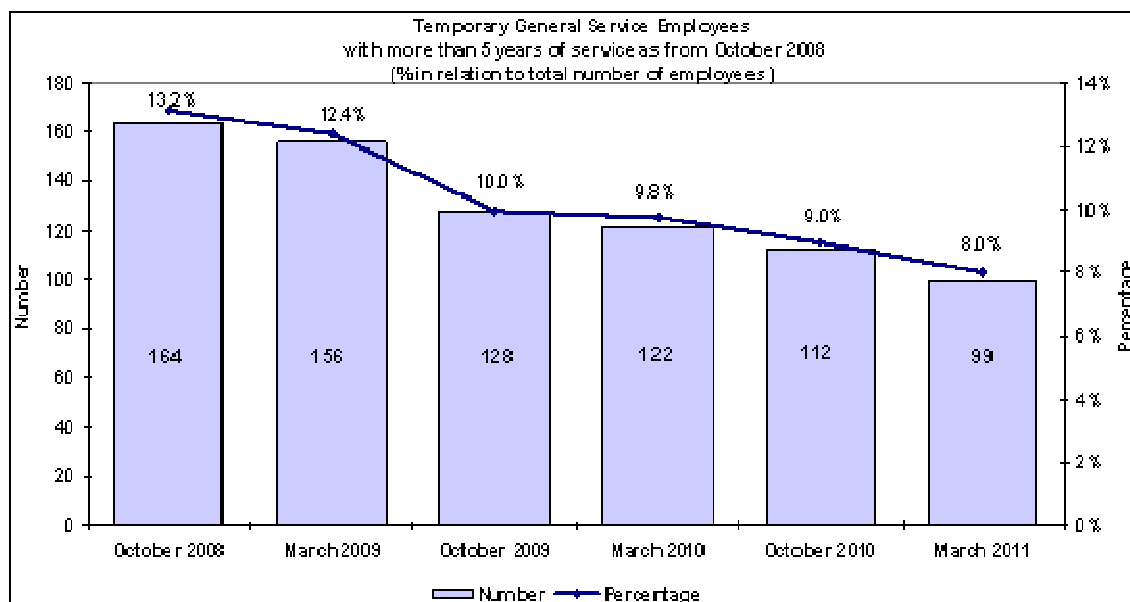
Temporary Employees

9. The Statement highlights the issue of those personnel who have served for many years on temporary contracts. The Statement alleges that "the promise to regularize their situation has been repeatedly put on hold." In particular, with regard to the Director General's proposal, agreed by Member States, to address this problem through the creation of up to 156 posts under the regular budget over a five year period³, the Staff Council objects to the proposal that this five year period would take effect from 2012.
10. The Administration underlines that, despite the constraints imposed by the financial crisis, it is making significant progress in addressing this situation, which had built up progressively over a long period. A first step was taken when 30 long serving employees on short term contracts were regularized in 2009, following Member States' approval of 30 new General Service posts in the Revised 2008/09 Program and Budget.

² Report On The Implementation Of The Voluntary Separation Program (VSP), WO/CC/63/3, June 23, 2010

³ WO/CC/63/5

The second step, in 2010, was to reserve for internal competitions 55 out of the 87 posts vacated by the VSP, for which it was considered that the skills and competencies were available internally, and to open these internal competitions to personnel on short term contracts. The selection process for these posts is currently on-going, with full involvement of the staff representatives designated by the Staff Council. The third step is the above-mentioned five-year plan for the creation of up to 156 posts, approved by Member States in document WO/CC/63/5. The bar chart below shows the progress made by the Administration since October 2008 in addressing this situation.



11. The Staff Council's statement cites a figure of 104 temporary employees as having been engaged in a two year period, which it suggests may have "absorbed" the VSP-vacated posts. The Administration notes that this concern is unfounded, since the recruitments against the reserved 55 VSP-vacated posts are exclusively through internal competitions. It is noted, moreover, that the figure of 104 engagements includes all temporary contract holders such as translators and revisers recruited for brief durations to service specific meetings, as well as holders of Special Labor Contracts, whose contracts are limited to a maximum of three years. In the course of 2010, 28 such temporary employees left the Organization.

12. It is estimated that a total of some 130 posts will be available and advertised in the course of 2010/2011 (including the posts vacated by the VSP). The Human Resources Management Department (HRMD) has worked closely with the Staff Council to devise measures to accelerate the recruitment process in view of the large number of posts to be filled. Such competitions also provide opportunities for staff holding a fixed-term or a permanent appointment to compete for promotion. In cases where a regular staff member is selected, the post vacated by that person opens up, in turn, a further opportunity for short term personnel.

13. The Staff Council also expresses concern that long-standing temporary employees do not have access to all the allowances enjoyed by staff on fixed term/permanent contracts, notably with regard to dependency benefits. The Administration recalls that one of the fundamental reforms proposed in the previously proposed revision of the Staff Regulations and Staff Rules⁴ (rejected by the current Staff Council – see paragraph 4

⁴ Proposed Revision of the Staff Regulations and Staff Rules, WO/CC/62/2, August 15, 2009

above) was that personnel on temporary appointments would have the status of staff members, thus introducing greater equity among staff and their conditions of service. This proposal had offered a solution to these legitimate concerns. Since the question of conditions of service for temporary staff is closely linked to the reform of the Staff Regulations and Staff Rules, the Staff Council is well placed, through its participation in the Consultative Group, to re-examine and make recommendations in a comprehensive manner.

Strategic Realignment

14. The Staff Council's statement criticizes the process of reorganization and restructuring under the Director General's Strategic Realignment Program (SRP). It suggests that the Staff Council should have been involved in the restructuring, and alleges that the reorganization had been used to "settle old scores." The Administration strongly rejects these allegations. The SRP was based on the need to ensure that the Organization uses its human and financial resources in the most efficient and effective manner to deliver its mandate within the rapidly changing external environment. The comprehensive Sector by Sector reorganization in 2009/2010 aimed to bring the organizational structures into line with the new Program structure as approved in the Revised 2008/09 Program and Budget. Internal staff transfers sought to match skills to operational needs as closely as possible, and were made in the interests of the Organization and in compliance with Staff Regulation 4.3, which does not require a competition for lateral transfers of staff between posts of the same grade. No staff member was downgraded in any of the changes.
15. Change, however, invariably creates feelings of anxiety. The Administration fully accepts that more systematic internal communication about the organizational change program may have helped staff to embrace the realignment more fully. Strengthening internal communication has therefore been prioritized by the Director General for 2011.

Performance Management and Staff Development System (PMSDS)

16. The Staff Council's statement highlights concerns about inadequate communication between supervisors and supervisees in the context of the PMSDS. The Administration wholly endorses the importance of good communication between supervisors and supervisees. Indeed, this is one of the prime objectives of the PMSDS. The PMSDS (now in its second year) established for the first time at WIPO a formal requirement for systematic dialogue between supervisors and supervisees to help improve understanding of each individual's role in contributing to the Expected Results of their program. The PMSDS is still in its early stages, and the experience of other organizations which have implemented similar systems indicates that it will take time to bring about the cultural and behavioral changes which such a system implies. The Administration looks forward, however, to continuing to work with the Staff Council on this.
17. The Staff Council statement also suggests that the PMSDS automatically sanctions under-performance while not recognizing good performance. This is not correct. The PMSDS ratings range from "does not meet expectations" to "exceeds expectations," clearly distinguishing the different levels of performance of staff. Moreover, there is a formal review process and no automaticity with respect to any sanctions. The former Staff Council was actively involved in the design of the PMSDS and in the pre-implementation pilot project. In his recent message to all staff (March 24, 2011) the Director General emphasized that the central intent of the PMSDS is staff development. Work is also in progress to strengthen recognition of good performance through a new reward and recognition scheme (paragraph 26 refers).

Investigations

18. The Staff Council's statement expresses concerns about elements contained in the recently published *Investigation Procedure Manual*, and announces its intention to appeal against the promulgation of the Manual and against its substantive provisions. The Administration recalls that, in line with the provisions of the 2007 WIPO Audit Charter, the *Investigation Procedure Manual*, dated July 30, 2010, was published for the purposes of transparency and for the information of staff. The Manual includes information on the investigative methods and procedures followed by Internal Audit and Oversight Division (IAOD) in the conduct of investigations. The Manual was developed on the basis of investigation good practices applied by the United Nations, including standards reflected in the Uniform Guidelines for Investigation, adopted by the annual Conference of International Investigators, which has been applied in WIPO since 2005. The Staff Council was invited to contribute comments during the drafting phase of the Manual. When the Staff Council made no response, the invitation was repeated, and finalization of the Manual was delayed in order to ensure that the Staff Council's comments, when received, could be fully considered. Many of the Staff Council's suggestions were then incorporated in the Manual.
19. The Staff Council statement also expresses concern about a lack of information regarding investigations relating to allegations of serious IT security breaches ("key logging") in 2008, as well as to the circulation of anonymous defamatory letters or emails. The Administration notes that all investigations have to be treated in strict confidence. In recognition of the widespread anxieties caused by the IT-related allegations, which affected a large number of staff, the Administration issued a communication to all staff in December 2010, in which it was disclosed that the allegations, made by a former staff member, having been exhaustively investigated, had been found to be without basis. Separately, individual staff who had requested that IAOD conduct an investigation into these incidents, or into the circulation of defamatory emails concerning themselves, have been informed of the outcome of the respective investigations as is required by the *Investigation Procedure Manual*. For complaints made by staff to police authorities the Organization has cooperated fully by providing any information requested by the police to support their own investigations.

Recruitments, Promotions

20. The Staff Council's statement criticizes the Administration's decision to temporarily suspend the distribution of the usual monthly Staff Movements circulars in 2010, pending the publication of a comprehensive series of Office Instructions announcing the results of the reorganization of each Sector in the context of the Strategic Realignment Program. The Administration notes that the Staff Movements Circulars resumed in December 2010, starting with a comprehensive list of all staff movements, appointments, and promotions which had taken place since December 2009.
21. The Staff Council's statement suggests that the temporary suspension of the Staff Movements circulars prevented the monitoring of statistics on geographical distribution. Statistical data on staffing, including in relation to geographical distribution and gender, is prepared by HRMD on a regular basis and published for Member States.
22. The Staff Council's statement alleges that some recruitment processes have been influenced by political considerations or "favoritism." The Secretariat strongly underlines that:

“The paramount consideration in the recruitment and selection of staff is the necessity of securing the services of persons with the highest standards of efficiency, competence and integrity” (Staff Regulation 4.1); and

“Due account shall be taken of the importance of recruiting staff on as broad and fair a geographical basis as possible, and preference should be given, other qualifications being equal, to candidates from regions of the world which are not represented or insufficiently represented.” (Staff Regulations 4.2).

If such geographical considerations are what the Staff Council is alluding to by “political” recruitments, then the Administration freely acknowledges that the Organization has actively encouraged the submission of applications from under-represented Member States, subject to meeting the required skills and qualifications for the job. The Administration notes that the total number of Member States represented in WIPO staffing has increased by six percent since October 2008. Over the same period, there has been seven percent increase in women in Professional category posts.

23. Recruitment and selection, however, are conducted in accordance with Chapter IV and Annex II of the Staff Regulations and Staff Rules. In all cases where a vacancy has been the subject of a competition, an Appointment and Promotion Board, which includes a staff representative designated by the Staff Council, submits its advice to the Director General. Any breach of the Staff Regulations and Staff Rules reported by members of Appointment and Promotion Boards would be investigated, and if proven, may lead to administrative measures being applied.

Post reclassifications and promotions

24. The Staff Council’s statement suggests that communication has been inadequate with regard to the results of post reclassification requests considered by the Classification Committee. The Administration notes that requests for reclassification of posts are assessed by classification specialists, using the ICSC classification standards and, in accordance with Staff Regulation 2.1, reviewed by the Classification Committee. The Committee includes a staff representative nominated by the Staff Council, and an external Chair, in order to ensure the uniform and consistent grading of posts. The results are duly communicated to the Program Manager/supervisor who submitted the request. Since October 2008, a total of 272 reclassification requests have been reviewed by the Classification Committee, including a backlog of 161 cases that remained untreated in October 2008.
25. The Staff Council also expresses concern about the discontinuation of the former system of promotion on merit. The Administration notes that promotion on merit has been discontinued in many organizations in the UN common system. In support of the principle of “equal pay for equal work”, and in line with best practices throughout the UN common system, WIPO has moved towards the system of *rank-in-post*, in which the grade is based on the duties, responsibilities and qualification requirements of the post, rather than on the length of service or competences of the individual. Under this system, and in accordance with the Staff Regulations and Staff Rules, a staff member may be eligible for promotion following either the upward reclassification of the post to which he or she is assigned; or reassignment to a post at a higher grade following a competition⁵. Eligibility for promotion following the upward reclassification of a post is determined taking into account the requirements of Staff Regulation 4.3(b)⁶.
26. The Director General explained to staff at the December 2010 Town Hall Meeting that the Administration is currently working on alternative means to recognize and reward performance (a Reward and Recognition System). A set of proposals is under development, within the broader framework of the UN Common System principles on reward and recognition.

⁵ See Staff Regulation 4.3(a)

⁶ “Any staff member is entitled to a promotion as a result of the reclassification of the post to which he is assigned, provided that he has the required qualifications and his performance is satisfactory.”

27. HRMD has taken note of the request from the Staff Council for further information regarding the reclassification and promotion system. HRMD has now issued an Office Instruction (February 2011) providing staff with information on the classification standards applied by the Organization. A communication on the subject of promotions will also be published. The subject of classifications and promotions, as an acknowledged source of staff concern, has been regularly addressed in the Director General's Town Hall meetings. It was also the subject of a presentation and discussion in the Director General's Management Meeting with Directors in November 2010, for onward communication to their staff.

Internal justice

28. The statement alleges that the Staff Council was "excluded" from the selection process for the post of Ombudsman. This is not correct. The appointment of the Ombudsman was made in strict accordance with the standard WIPO recruitment procedures, as outlined in Chapter IV and Annex II of the WIPO Staff Regulations and Staff Rules. A staff representative designated by the then Staff Council was a member of the Appointment and Promotion Board for this competition and participated fully in the selection process. This Board had already been established, and the selection process was underway, when the new Staff Council was elected in April 2010.
29. The Staff Council's statement expresses dissatisfaction that the appointment of the Chief Ethics Officer to head the recently established Ethics Office was made without a competition, and states that the Staff Council has launched an action with a view to overturning the appointment. The Administration wishes to make clear that the assignment of the Ethics Officer was made by means of an internal lateral transfer of an appropriately qualified staff member from another section, in the interests of the Organization and in full compliance with Staff Regulation 4.3, which does not require a competition process in the event of a lateral transfer (i.e., a transfer which does not involve promotion to a post at a higher grade). The Administration confirms that the Director General received a letter from the Staff Council, dated August 3, 2010, requesting that the Director General review the appointment of the Ethics Officer, to which a response was sent on September 27, 2010. The Administration maintains that there is no reason to overturn the appointment.
30. The Staff Council also calls to be included in consultations relating to the future work of the Ethics Office and the definition of ethics. The Administration notes that it has assured the Staff Council that this is indeed the intention. As foreseen in the relevant SRP project brief and in the 2011 work plan of the Ethics Office, a draft WIPO Code of Ethics is being circulated to all staff as well as to the Staff Council to solicit comments. Likewise, the development of a policy on anti-retaliation, as highlighted by the Staff Council, has already been clearly identified as a priority in the mandate of the Ethics Office.

Appeals and Grievances

31. The Statement expresses concern at the high number of pending appeals and grievances, including at the ILO Administrative Tribunal. The Administration shares this concern. The Administration plans to review the procedures of the internal system of administration of justice, in collaboration with the Staff Council, and is also concerned to enhance informal means of conflict resolution. The Administration has taken note of issues raised in appeals, and where necessary, is taking steps to address them, including, notably, through the proposed revisions to the Staff Regulations and Staff Rules and related policies and procedures. It is noted that an increased number of appeals may also be symptomatic of a period of reform in an Organization, reflecting resistance to change, even when reforms are in the wider interests of the Organization or the staff at large.

Allegations of racism

32. The statement by the Staff Council alleges that, during the 2010 Staff Association Assemblies, allegations of racism and obstructions of justice were made against "officials in high places." The Administration rejects in the strongest terms such baseless insinuations of racism. It notes, moreover, that the so-called racism allegations were not directed against any act or incident involving the Administration. On the contrary, the accusations were exchanged between Staff Association members in the context of certain anonymous emails and letters which appeared to have been written by a/some staff member(s) about other colleagues; and related to criticisms of the way in which members of a previous Staff Council had handled these emails.

33. In a memorandum to all staff in May 2009, the Administration underlined that the sending of defamatory or insulting emails of any sort was strictly prohibited and should be immediately reported. Moreover, the Director General has made clear in written and oral statements to all staff that no form of racism will ever be tolerated by the Organization. In his memorandum to all staff on April 23, 2010, he wrote: "Racist conduct, in any shape or form is totally unacceptable in any context, and is contrary to all that we stand for as an international organization, proud of its multicultural and multi-ethnic staff, and of its position as a United Nations Specialized Agency. Any staff found to be responsible for racist conduct, or for circulating defamatory material or hate mail will be dealt with severely in accordance with the Staff Regulations and Staff Rules of this Organization and with other administrative issuances in force. By the same token, false accusations of racism, or mischievous allegations of serious wrong-doing of any nature made against a fellow staff, can also not be tolerated."

Disciplinary cases

34. The statement by the Staff Council also expresses concern about two employees who were suspended for two years pending the submission of their cases to the Joint Advisory Committee on disciplinary matters. The Administration confirms that there are currently two WIPO employees on suspension with full pay, pending completion of the disciplinary process. These cases have been the subject of investigations of a highly complex and sensitive nature. The Administration shares the concern at the length of their suspension and is doing everything possible to ensure that the disciplinary process is completed as soon as possible. In this respect, the Administration was deeply concerned that the disciplinary proceedings before the Joint Advisory Committee were delayed by six months because the Staff Council did not respond to the Administration's repeated requests for

the Council to submit the names of their nominated staff representatives to the Committee⁷. The disciplinary process is now close to completion.

[End of Annex III and of document]

⁷ See Staff Rule 8.2.1