

WIPO



WO/CC/XXXIX/5

ORIGINAL: English

DATE: October 1, 1997

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WIPO COORDINATION COMMITTEE

Thirty-Ninth Session (28th Ordinary)
Geneva, September 22 to October 1, 1997

REPORT

approved by the Coordination Committee

1. The Coordination Committee was concerned with the following items of the Consolidated Agenda (document AB/XXXI/1 Prov.2): 1, 2, 3, 5, 6, 18, 19, 20, 21, 28, 29 and 30.
2. The report on the said items, with the exception of items 18, 19 and 20 is contained in the General Report (document AB/XXXI/12).
3. The report on items 18, 19 and 20 are contained in the present document.
4. Ms. Lilia R. Bautista (Philippines), Chairperson of the Coordination Committee, presided over the meetings of the Committee.

ITEM 18 OF THE CONSOLIDATED AGENDA:

STAFF MATTERS

5. Discussions were based on documents WO/CC/XXXIX/1 and 2.

WIPO Staff Association

6. At the invitation of the Chairman of the Coordination Committee, the President of the WIPO Staff Association made a statement, which is reproduced in its entirety in the annex.

Staff Matters

7. With regard to the proposed change in the calculation of the post adjustment index in Geneva to include neighboring France and the related suggestion by the Director General that it will be necessary for the Governing Bodies of WIPO to take a position on the lawfulness of such an index, if any, before its implementation by the International Bureau, the Delegation of the United States of America, while reaffirming the universal acclaim for the professionalism and skills of the staff of the Organization, strongly believed that the UN common system in place saved the Member States a lot of work and allowed each specialized agency such as WIPO to continue in an objective way to do its business. This Delegation strongly believed that the continuation of that process was important in this regard. If the UN decision on that index was to be ignored, the Member States of this Committee would be in the difficult process of trying to find a substitute to that index.

8. With regard to the proposal by the Director General for the establishment of a Study Group on Staff Matters, the Delegation of the United States of America opposed such establishment until a clarification could be obtained on the mandate of the proposed study and such mandate was found acceptable. In particular, this Delegation found that the wording in paragraph 21 of document WO/CC/XXXIX/1, which mentions the necessary flexibility for the International Bureau to face its specifics, may be designed to allow this Study Group to recommend flexibility for WIPO that was not allowed by the common system and accordingly would not be acceptable to the US Delegation. This Delegation found that some questions needed to be clarified before the question could be addressed again, such as: Is it to see what WIPO's options are regarding personnel practices within the common system? Is it to develop recommendations for changes to the common system? If so, will the members of the Study Group really have the background and expertise in personnel matters that can result in sound recommendations? How often would the Group meet? Will the recommendations be developed by consensus?

9. Finally, on the question of the addition of German and Japanese to the language incentive program, the Delegation of the United States of America believed that the common system was the best referee of personnel practices and this Delegation strongly opposed expanding the General Service language allowance and Professional staff advance steps schemes to include competencies in Japanese and German. WIPO's language incentive scheme should remain consistent with the parameters approved by the United Nations General Assembly in 1993 on the basis of ICSC recommendations. That is, *inter alia*, that language incentives could apply for adequate and confirmed knowledge of a "second official language." Unless Japanese and

German were official languages of WIPO, the US Delegation opposed the proposed changes on that basis.

10. On the proposal to include German and Japanese in the incentive scheme, the Delegation of the Russian Federation underlined that the common system of the UN had to be implemented as adopted by its General Assembly and within the guidelines laid down by the ICSC. One of the first parameters drawn up by the General Assembly was applying the scheme to those employees with a sound knowledge of a second official language. The proposal which was now before the Coordination Committee did not fall into line within the common system. Also, this Delegation wished to have the conclusions of the ICSC experts when discussing matters concerning the common system.

11. On the matter of setting up a tripartite Study Group on Staff Matters, the Delegation of the Russian Federation wanted to point out that the level of remuneration in the common system and its competitiveness with the private sector had never been raised in any document or resolution concerning the common system. With regard to the setting-up of this Group, this Delegation was concerned by the trend to the proliferation of such tripartite machinery for discussing staff matters. Member States had set up a mechanism to deal with these matters. Unfortunately the staff associations, by boycotting the ICSC, which after all was an organ of the United Nations General Assembly, had practically done away with the options provided by the consultative procedure within the ICSC. The Delegation of the Russian Federation was not however in favor of tripartite committees being set up in specialized agencies. This would question the central role of the General Assembly of the United Nations, that is of the Member States and the ICSC which shall set the conditions of service and level of remuneration. Questioning the logic of this proposal whereby the Group would prepare recommendations to the Director General who would then report to the Coordination Committee, it appeared to this Delegation that the Director General could appoint advisers among qualified persons without setting up any tripartite machinery. If the Coordination Committee nevertheless considered it possible to set up a group to consider staff matters, the Delegation proposed that it refer to precedents existing within the Organization and create a group of representatives of Member States, in the work of which the Administration, the staff and the ICSC would take part in an observer capacity. As far as the Russian Federation is concerned, it would be interested in having its expert in such a Group.

12. On the matter of the post adjustment for Geneva, the Delegation of the Russian Federation stressed that this question would be examined by the United Nations General Assembly taking in consideration all the legal, technical and other circumstances on the basis of the recommendation prepared by the ICSC. Specialized agencies in Geneva had had an opportunity to present their opinion about this proposal and their opinions would be duly accommodated when a decision will be taken. The Delegation of the Russian Federation did not agree that the Governing Bodies should assess whether the post adjustment index was lawful or not before its implementation by the International Bureau. The application of the post adjustment index was an obligation of a member organization of the common system. The fact that Members States could be asked to take a position on the legality of decision taken directly by the General Assembly of the United Nations, or through the ICSC, would violate the principles of the common system.

13. The Delegation of Germany wished to take note of the statement made by the President of the Staff Council and expressed great sympathies for this statement and for the impression

given as far as the social conditions and living conditions are concerned in Geneva. This Delegation would bring this matter to the attention of the competent authorities in Germany which are responsible for the working conditions of international civil servants. The world of civil servants was under great pressure because Member States had to make economies. However, WIPO had to be competitive and it must work to maintain its competitiveness. The competitors were not the other international organizations located and working in Geneva but the European institutions like the Harmonization Office in Alicante and the European Patent Office in Munich. In order to try to maintain a certain level of competitiveness, it was highly desirable that the present situation did not deteriorate further. Necessary steps should be taken in order to avoid a situation where the excellence of the staff would be diminished in the course of the years to come. This was, in particular, not acceptable because in the PCT, Madrid, The Hague and the other registration activities, it was indispensable to maintain the highest quality of services rendered by the staff.

14. The Delegation of Germany thought that, as far as the proposed amendments to the Staff Regulations relating to Japanese and German languages were concerned, the Delegations of the United States of America and of the Russian Federation had not taken into account the special situation of WIPO. WIPO was processing to a vast extent international patent applications filed by Japanese and German enterprises. The filing and publication languages included also Japanese and German. Therefore, in order to preserve the quality of the services rendered by the staff who had to read and to check as to formalities the incoming international applications, the Delegation of Germany found it absolutely indispensable to have a fairly high percentage of staff members who spoke and applied Japanese and German, in particular in view of the fairly high percentage of incoming international applications written in Japanese and German. This Delegation wished to strongly support the proposals put forward by the International Bureau in that regard.

15. The Delegation of Switzerland wished to stress at the outset that it strongly supported the full application of the common system for all the organizations of the United Nations. This Delegation was, however, in favor of measures which would allow more flexibility in its implementation in order to meet the specific needs of some of the specialized agencies, in particular *vis-à-vis* the competitiveness of the private sector. The Delegation of Switzerland was also in favor of an extensive examination of the working methods of the ICSC. However, it was not up to this Committee to discuss such matters but to the Fifth Commission and to the General Assembly of the United Nations.

16. Regarding the amendments of the Staff Regulations concerning the language incentives, the Delegation of Switzerland supported the views expressed by the Delegation of Germany and the introduction of Japanese and German into the language scheme.

17. As far as the establishment of a Study Group on Staff Matters was concerned, the Delegation of Switzerland was favorable to such an establishment with some reservations. Firstly, this Delegation supported the idea of the Delegation of the Russian Federation on the composition of such a Group. The number of Member States participating in this Study Group should not be limited and the Study Group should be opened to any country which was interested, at least as an observer. Such a Study Group had already been created within the International Telecommunications Union and its results had been very positive. The Chairman of ICSC himself had expressed his satisfaction with regard to the achievements of this Group and, as a consequence, entailed the ICSC to propose measures allowing more flexibility in the

common system. If such Study Group was to be created in WIPO, it would be useful that the International Bureau be inspired by what had been already achieved within the ITU Working Group. Switzerland would be very interested in participating in such Study Group if it was created.

18. The Delegation of Japan fully supported the declaration of the German Delegation. It wished, however, to recall that Japanese was one of the official working languages provided for under the Patent Cooperation Treaty and that working staff involved with Japanese applications under the PCT system should be entitled to receive reasonable remuneration corresponding to the difficulties in handling Japanese PCT applications, to the expertise and proficiency needed for the PCT activities within the International Bureau of WIPO.

19. The Delegation of the United Kingdom supported the comments that had already been made by the Swiss Delegation. Whilst it had no intention to prevent consensus on the creation of a Study Group, it wished to stress the concerns that had already been expressed that such a Group—if it were to be created—must be open-ended to allow Member States to experience firsthand the concerns of the staff and to play a role in trying to help some of those concerns. This Delegation had also already participated in the ITU Study Group as an observer through its previous meetings. The Delegation of the United Kingdom would urge that this new Group—if it were to be set up—start on the basis of what had been already achieved in ITU on that matter.

20. The Delegation of Ecuador, on behalf of the countries of Latin America and the Caribbean (GRULAC) wished to point out to other Delegations the importance it allocated to staff matters in WIPO and noted the statement made by the President of the WIPO Staff Association with respect to staff matters. GRULAC would be grateful if the new Director General could examine the matter of the ongoing under-representation of Latin America and the Caribbean in WIPO. GRULAC hoped that the staff representation of the Latin America and the Caribbean countries could be strengthened in the very near future. GRULAC indeed would like to be part of the proposed WIPO Study Group on Staff Matters. GRULAC wished to recall that a similar body existed also within the WTO. WIPO should not get out of the United Nations common system, but within WIPO, governments would be represented in the Study Group in order to examine the implementation of United Nations system standards. GRULAC would stress the need to ensure that, in addition to strengthening geographical representation in WIPO staff, there be a strengthening of the representation of women, also at high-level posts in line with the trends ongoing in other international organizations.

Amendments to the Staff Regulations Provisionally Decreed and Applied under Staff Regulation 12.1

21. The WIPO Coordination Committee approved the amendments to Staff Regulations 3.1 (Salaries for the General Service category) and 3.16*bis* (Internal Taxation for the General Service category) as reflected in document WO/CC/XXXIX/1, Annexes I and II.

Amendments to the Staff Regulations Under Staff Regulation 12.1

22. Having noted the concerns expressed by the Delegations of the United States of America and of the Russian Federation, the WIPO Coordination Committee approved the amendments to Staff Regulations 3.4 (Advancement Within Grade) and 3.7 (Language Allowance) as reflected in document WO/CC/XXXIX/1, Annexes III and IV.

Study Group on Staff Matters

23. The WIPO Coordination Committee requested that some further clarifications be given as to the mandate and the membership of the proposed Study Group and that this matter be taken up again at a future session of the WIPO Coordination Committee.

International Civil Service Commission

24. The WIPO Coordination Committee noted, without discussion, the information contained in paragraph 24 of document WO/CC/XXXIX/1.

United Nations Joint Staff Pension Board

25. The WIPO Coordination Committee noted, without discussion, the information contained in paragraph 26 of document WO/CC/XXXIX/1.

Post Adjustment in Geneva

26. The WIPO Coordination Committee noted the information contained in paragraphs 1 to 6 of document WO/CC/XXXIX/2 and noted that the statement made under paragraph 7 of the said document may not be necessary.

WIPO Staff Pension Committee

27. The WIPO Coordination Committee elected Mr. Rémy Roul, Deputy Secretary General, *Institut national de la propriété industrielle*, Paris, as a member of the WIPO Staff Pension Committee for a term running until the 2001 ordinary session of the WIPO Coordination Committee and elected Mr. Ulrich Kalbitzer, Counsellor, Permanent Mission of Germany to the Office of the United Nations in Geneva and other International Organizations in Switzerland, as an alternate member of the WIPO Staff Pension Committee for a term running until the 1999 ordinary session of the WIPO Coordination Committee.

ITEM 19 OF THE CONSOLIDATED AGENDA:

APPROVAL OF AN AGREEMENT BETWEEN WIPO AND THE EURASIAN PATENT ORGANIZATION (EAPO)

28. Discussions were based on document WO/CC/XXXIX/4.
29. The Representative of the Eurasian Patent Organization (EAPO) welcomed the active participation and help of WIPO in the activities of EAPO. He expressed his support for the Agreement between WIPO and EAPO, which would further develop the close working relationship and cooperation between the two intergovernmental organizations.
30. The WIPO Coordination Committee approved the Agreement between WIPO and EAPO, the text of which appears in the Annex to document WO/CC/XXXIX/4.

ITEM 20 OF THE CONSOLIDATED AGENDA:

APPOINTMENT OF MEMBERS OF THE WIPO ARBITRATION COUNCIL

31. Discussions were based on document WO/CC/XXXIX/3.
32. The Delegation of Ecuador, speaking on behalf of the Latin American and the Caribbean Group, stated that it attached great importance to the work of the WIPO Arbitration and Mediation Council. It expressed regret at the absence of a member on the Council from a country of the Latin American and the Caribbean Group and requested that a place be made available for a representative from a country of the Group.
33. The Delegation of Côte d'Ivoire, speaking on behalf of the African Group stated that it wished the composition of the WIPO Arbitration and Mediation Council to be expanded to include a further member from a country of the African Group.
34. The WIPO Coordination Committee approved the proposed renewal of the appointment of Mr. Jürgen SCHMID-DWERTMANN, Deputy Director General, Ministry of Justice, Germany, and Professor TANG HOUZHI, Vice-Chairman, China International Trade and Economic Arbitration Commission (CIETAC), as members of the WIPO Arbitration and Mediation Council, and the proposal to increase the representation of the non-governmental sector by appointing Dr. Mohamed ABOUL-ENEIN, Director, Cairo Regional Centre for International Commercial Arbitration, Egypt. It was further decided that the Program and Budget for the 1998-99 biennium should include provision for the enlargement of the WIPO Arbitration and Mediation Council so as to take account of the desires expressed by the Delegations of Ecuador and Côte d'Ivoire, referred to in paragraphs 32 and 33.

[Annex follows]

ANNEX

ADDRESS BY THE PRESIDENT OF THE WIPO STAFF ASSOCIATION
TO THE COORDINATION COMMITTEE

Madam Chairman, Ladies and Gentlemen,

Last year, in my address to this same Coordination Committee, I told you that the staff considered themselves always at the mercy of another adverse decision of the International Civil Service Commission and the UN General Assembly. This anxiety is not recent: it has been increasing as the years pass. The staff demonstration that took place in the WIPO lobby on Monday showed you the extent of the uneasiness and discontent that they feel. Unfortunately, the facts of the matter show that the staff are right. They have everything to fear from the decision-making process existing at present within the so-called common system, that is, a mechanism in which the staff are treated as an irrelevancy by virtue of a principle called "consultation," the minimalist application of which is unacceptable on more than one count in intergovernmental organizations with headquarters in countries that claim to be the guarantors of democratic principles and of the right of negotiation between employers and employees.

Two years ago, the deputy head of administration of the United Nations described the International Civil Service Commission as too unresponsive, too politicized and too expensive. That startling statement gave the staff a glimmer of hope. It is true that the ICSC is a body that costs a great deal of money, 11 million dollars in 1996-1997, for instance. WIPO has paid its bill, like all the other specialized agencies. And yet the meal served up has been particularly indigestible for its staff. For a number of years staff representatives no longer take part in the Commission's work. Why is that? Because they are fed up with talking to deaf ears, receiving the preparatory documents for a meeting just two days before it starts, asking in vain for a change in the Commission's working methods to make it what it was intended to be, namely a technical working body. When the staff take part, point out inconsistencies and make proposals, it is a complete waste of time; and yet it will be said that they were consulted. When they do not take part, that is their decision, their problem. As for the question why they do not take part, that arouses no interest. The main thing is for the planned decisions to be actually taken by the UN General Assembly. The UN Secretary-General himself, Kofi Annan, in his report on the reform of the UN, mentioned in connection with the ICSC that its composition, terms of reference and operation should be reconsidered. A damning report indeed!

The staff of WIPO are determined that their work should serve for the achievement of the objectives of the Organization and the accomplishment of its mission, subject to respect for the grand principles set forth in the Charter of the United Nations and in the Convention establishing WIPO and also for the ideals that presided over the creation of the UN and all its specialized agencies. This was further subject to the condition, however, that the fundamental rights of those staff should be fully recognized and respected. The staff of WIPO are vehemently opposed to the adoption, by the United Nations General Assembly, of a code of conduct that would seriously encroach on the freedom of expression and demonstration of staff, and on their right to contest decisions that go against them. That is an extremely repressive document, and the staff of WIPO are determined to fight any proposal to extend the application of such a code to them.

This denial of rights is contrary to the conventions on employment and freedom of association adopted within the framework of the International Labour Organization, and in fact are a violation of the Universal Declaration of Human Rights, the fiftieth anniversary which we shall be celebrating in 1988.

The steady reduction in the salaries of staff in the General Service category and of staff in the Professional and higher categories, together with the latest threat to the post adjustment of the latter as a result of the study in progress on a change in the calculation method, which is regarded by all the legal advisors of the specialized agencies headquartered in Geneva as being contrary to the legal principles in force, are only the tip of the iceberg. They are the direct consequence of the same determination not to accord the staff those rights that they should have, a determination that is reflected in unilateral, arbitrary decisions. Not all intergovernmental organizations are in the same situation, however. Staff at the World Bank and in the so-called Coordinated Organizations recently received salary adjustments (a 6% rise at the World Bank). In Geneva salaries have been moving downwards for more than two decades. For the Professional and higher categories they have dropped by 30% in terms of purchasing power since 1975. General Service staff saw their salaries go down again last year, this time by 7.4%. And yet Geneva remains one of the most expensive cities in the world, indeed the daily subsistence allowance paid to participants in meetings held in Geneva is periodically readjusted by the UN departments responsible. I am sure, Ladies and Gentlemen, that this also applies to you. And we should not of course overlook the increase in staff contributions to the medical and accident insurance schemes and to the Pension Fund. Why are some organizations granted what others are refused, to such an extent that the adversely affected organizations can no longer recruit or retain highly qualified staff in the Professional and higher categories? This gives the impression that the Member States are not satisfied with the work of WIPO staff.

The present system does of course provide staff with an appeal route, namely the legal route leading to the ILO Administrative Tribunal. There too, however, the system has for a long time demonstrated its limitations: the Tribunal confines itself to ascertaining whether decisions taken by the UN General Assembly or the Governing Bodies of specialized agencies have been properly applied, without trying to establish whether those decisions are themselves in keeping with the general principles of law, or whether the methods used, and the changes unilaterally made to those methods, are not flawed or actually illegal. There is reason to wonder what purpose is served by such a tribunal, which contents itself with rubber-stamping decisions of the UN General Assembly.

In other words, the common system is a locked system in which decisions are taken behind the backs of staff and at their expense, which in turn is detrimental to the smooth operation of its constituent organizations and the efficiency of their work.

WIPO is a growing Organization, and it needs competent, motivated staff. WIPO is a prosperous Organization, and I do not mean in the financial sense alone. The International Bureau is equally rich in terms of its staff, both past, present and future, who have made WIPO what it is, namely an international public service universally appreciated in the intellectual property world for the quality of the work done and services proposed and provided. Its activities are mutually inseparable, and the preservation of the integrity of its administrative services is essential if it is to continue to carry out its mission with the same excellence. Indeed excellence is the key to WIPO's success.

To a large extent, WIPO owes that excellence to its staff, regardless of category, regardless of contract type. Not one active member should be overlooked. I am thinking in particular of colleagues working under short-term contracts, whose circumstances are precarious, all the more so since many of them come from abroad and do not qualify for the social security benefits reserved for nationals of the host country.

Human resources management should be one of the key aspects of the policy of a growing international organization, due account being taken of the particular characteristics of the organization, in our case WIPO.

The staff of WIPO are willing to make their contribution as partners in that management, and they support the proposed creation of a Study Group on Staff Matters, submitted to the Coordination Committee by the Director General, but they do have serious reservations, for the reasons mentioned earlier, regarding the participation of the ICSC as an observer.

I now have the great honor to pay tribute to Dr. Arpad Bogsch, and to thank him on behalf of the staff for the support that he has given the WIPO Staff Association throughout his successive terms of office. Dr. Bogsch has moreover very frequently graced events organized by the Association with his presence. I am thinking in particular of staff parties. We are also greatly obliged to him for having always been the fervent advocate of the staff within UN bodies dealing with questions concerning employment conditions, and for having always been available to receive staff representatives and hear their views. We present to him our best wishes for the new period in his life that will shortly be starting.

I also have the great privilege today, on behalf of the staff of WIPO, of congratulating Mr. Kamil Idris on his election to the post of Director General of the Organization. I can assure him that the staff of WIPO will continue to work in pursuit of the ideals that presided over the creation of the Organization for which he will be responsible.

Thank you for your attention.

[End of Annex and of document]