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**Fifty-Third (29th Extraordinary) Session
Geneva, September 21 to 29, 2020**

**REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT
COMMITTEE (IAOC)**

prepared by the WIPO Independent Advisory Oversight Committee (IAOC)

The present document contains the “Report by the WIPO Independent Advisory Oversight Committee (IAOC)”, which is being submitted to the WIPO Program and Budget Committee (PBC) at its Thirty-First session (September 8 to 11, 2020).

Any decisions of the PBC in respect of that document will appear in the “List of Decisions adopted by the Program and Budget Committee” (document A/61/6).

[Document WO/PBC/31/2 follows]



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Program and Budget Committee

Thirty-First Session
Geneva, September 8 to 11, 2020

REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT
COMMITTEE (IAOC)

prepared by the WIPO Independent Advisory Oversight Committee (IAOC)

1. This document contains the Report by the WIPO Independent Advisory Oversight Committee (IAOC), prepared by the IAOC and covering the period from June 15, 2019 to April 23, 2020.

2. The following decision paragraph is proposed:

3. *The Program and Budget Committee (PBC) recommended to the WIPO General Assembly to take note of the “Report by the WIPO Independent Advisory Oversight Committee (IAOC)” (document WO/PBC/31/2).*

[Report by the WIPO Independent Advisory Oversight Committee follows]

ANNUAL REPORT BY THE WIPO
INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)
FOR THE PERIOD JUNE 15, 2019 TO APRIL 23, 2020

[June 12, 2020]

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I. INTRODUCTION

1. Pursuant to its Terms of Reference, the WIPO Independent Advisory Oversight Committee (IAOC) submits an annual report to the Program and Budget Committee (PBC) and to the WIPO General Assembly.
2. The IAOC (hereinafter also referred to as “the Committee”) was established in 2005. It is a subsidiary body of the WIPO General Assembly and of the PBC. It serves in an independent expert advisory capacity and assists the Assembly and the PBC in fulfilling their oversight responsibilities.
3. The present report covers the period from June 15, 2019 to April 23, 2020. Section II of this report provides an overview of the Committee’s quarterly sessions, composition of the Committee and working methods. Section III details matters discussed and reviewed by the Committee during the reporting period.

II. QUARTERLY SESSIONS, COMPOSITION AND WORKING METHODS

Quarterly Sessions

4. During the reporting period, the Committee held three quarterly sessions: from September 17 to 20, 2019 (54th session); from December 2 to 6, 2019 (55th session); and from April 22 to 23, 2020 (56th session). In line with its Terms of Reference, the Committee held information meetings with representatives of Member States following the 54th and 55th sessions, and published its session reports on the WIPO website.
5. The 56th session was held virtually, in view of the COVID-19 pandemic, therefore an information meeting with representatives of Member States was not feasible. The Committee, however, decided to continue with the dissemination of the 56th session report to the Member States as usual through the WIPO website.

Composition and Selection Process for new Members

6. The IAOC comprises seven members drawn from WIPO’s Regional Groups. The members serve in their personal capacity and independently of Member States. In conformity with its Terms of Reference and Rules of Procedure, at its 55th session in December 2019, the Committee elected Mr. Mukesh Arya as Chair and Ms. Tatiana Vasileva as Vice-Chair. Ms. Maria Vicien-Milburn was the Chair during the 54th and 55th sessions.
7. In accordance with the selection process described in paragraph 28 of document WO/GA/39/13, the Committee currently consists of the following members:
 - Mr. Mukesh Arya (Asian Group), Chair
 - Ms. Tatiana Vasileva, Vice Chair (Group of Central Asian, Caucasus and Eastern European States (CACEEC));
 - Mr. Igors Ludboržs (Group of Central European and Baltic States (CEBS));
 - Ms. Maria Vicien-Milburn (Group of Countries of Latin America and the Caribbean);
 - Mr. Bert Keuppens (Group B);
 - Mr. Othman Sharif (African Group); and
 - Mr. Zhang Long (China).

The composition reflects a proper mix and balance of skills, expertise and experience.

8. In view of the COVID-19 pandemic, before its 56th session, the new members (Messrs. Ludboržs and Keuppens) were provided with an online orientation on April 3, 2020, by the Director, Internal Oversight Division (IOD), about the three functions of IOD, i.e., internal audit, evaluation and investigation. During its 56th virtual session, a brief orientation about WIPO's Accountability Framework and the functions of the Program, Planning and Finance Department was conducted.

9. The Committee places on record its appreciation to the former members of IAOC, whose terms ended on January 30, 2020, for their valuable advice and professional contribution.

– Mr. Gábor Ámon (Group of Central European and Baltic States)

– Mr. Egbert Kaltenbach (Group B)

Working Methods

10. The Committee is a non-executive body, providing expert advice through its engagement with WIPO's Director General and other senior managers, the Director, IOD, the Chief Ethics Officer, the Ombudsperson, the Controller and the External Auditor, mainly on the basis of reports, presentations and information that it is provided with. It further deliberates on relevant matters internally to reach its assessments and conclusions.

11. During the reporting period, the Committee received briefings on the Capital Master Plan and on WIPO's External Offices. These briefings provided insightful and comprehensive overviews on WIPO's substantive functions and activities, and allowed the Committee to gain a better understanding of the context of its oversight and advisory responsibilities.

IAOC Self-Assessment

12. At its 55th session in December 2019, in line with its Terms of Reference, the Committee conducted a self-assessment of its work since July 2018. The Committee concluded that it is effectively achieving its mandate. Nevertheless, based on experience, the Committee expressed the need for more extensive briefing for the new members.

III. MATTERS DISCUSSED AND REVIEWED

Internal Oversight

Internal Oversight Plan and Workplan Results

13. At its 56th session, the Committee, together with the Director, IOD, reviewed the final Oversight Annual Workplan for 2020, the draft of which was reviewed by the Committee in its 55th session. The Committee noted that the final workplan included, *inter alia*, four audits, four evaluation activities, validation of WIPO's Performance Report for the 2018/19 Biennium, one evaluation advisory, and one combined audit and integrity review. The Committee welcomed the initiatives of IOD to perform combined reviews and its plan to build its capacity to conduct continuous auditing and data analytics. Overall, the Committee was satisfied with the planned coverage and thus supported IOD's Annual Workplan. In view of the COVID-19 pandemic, the Director, IOD, assured the Committee that necessary adjustments would be made to the plan based on IOD's discussions with Management. The Committee was satisfied with the proposed actions being taken by IOD to make adjustments to the 2020 Oversight Annual Workplan as necessary.

14. Throughout the year, based on the quarterly IOD Activity Reports prepared by the Director, IOD, the Committee reviewed the implementation of the approved 2019 workplan and was satisfied with its progress, including the results of the Client Satisfaction Survey.

Internal Audit

15. At its 55th session, the Committee reviewed, together with IOD and Management, two internal audit reports: Audit of Internal Service Management in the Administration and Management Sector (IA-2019-01) and Audit of the WIPO Enterprise Content Management (IA-2019-02). The Committee suggested that it would be useful to have internal benchmarking in order to improve internal services and that performance indicators on service management be made more specific. The Committee noted that Content Management is more mature than Knowledge Management at WIPO and that quality pertaining to Knowledge Management needs improvement. The Committee added that the information maintained must not be trivial and thus, quality must be regularly assessed for relevance.

16. The Committee was pleased with the two reports and noted that the implementation of most recommendations was already in progress. Because of the limited time available during its 56th virtual meeting, the Committee decided to review two internal audit reports in the next meeting, namely, Audit of Financial Closure Process and Audit and Integrity Review of the Staff Benefits and Entitlements.

17. The Director, IOD informed the Committee that all oversight reports, subject to IOD's Report Publication Policy (IOD/PP/2017), reviewed during the period, had been published in unredacted format on the WIPO website.

Evaluation

18. During the reporting period, the Committee reviewed, together with IOD and Management, three evaluation reports:

- Evaluation of the Regional Bureau for Asia and the Pacific (EVAL 2018-02)
- Evaluation of WIPO's Partnerships (EVAL 2018-04)
- Evaluation and Audit Report of WIPO's Gender Equality (EVAL 2019-02)

19. Two additional evaluation reports that were issued (Evaluation of the Lisbon System and Enforcement and Effects on Building Respect for IP), as reported during the 56th meeting, will be reviewed by the Committee in the next meeting, due to the limited time available during the 56th virtual meeting.

Investigations

20. In accordance with the Internal Oversight Charter, the Director, IOD apprised the Committee at each session, on the status of investigation cases and caseload trends, providing a breakdown of complaints received and complaints substantiated by category of misconduct.

21. At the 56th session, it was reported that as of March 31, 2020, there were 12 open investigation cases, one of which was under preliminary evaluation, one under full investigation and 10 cases on hold. The Committee noted that of the 12 pending cases, one was registered in 2016, seven in 2019 and four in 2020. In accordance with the Internal Oversight Charter, in cases involving a potential conflict of interest on the part of IOD, the Committee reviewed each case in detail and provided advice to the Director, IOD and others.

External Audit

22. During the reporting period, the Committee regularly interacted with the External Auditor, National Audit Office (NAO), United Kingdom. The Committee also held private sessions with the representatives of the External Auditor.

23. At its 54th session, the Committee discussed with the representatives of the External Auditor their draft 2019 External Audit Planning Report. The Committee took note of how the External Auditor had assessed risks, the basis for materiality, and how the External Auditor would respond to the identified risks.

24. At its 55th session, the Committee discussed with them the 2019 Interim Audit Outcomes. The Committee was pleased to note the positive progress and that the External Auditor was well positioned for the final audit. The Committee was also pleased to note at that session that the performance audit of External Offices had commenced and that the audit outcome was expected to be a part of the 2019 External Auditor's Long Form Report.

25. At the 56th session, the External Auditor reported to the Committee that while the bulk of the audit was complete, a number of small final issues were in discussion with Management at the time of the session. Nonetheless, the External Auditor indicated that, as there were no material adjustments, an unqualified opinion was anticipated. The External Auditor emphasized that the financial statements were of good quality. With regard to the effect of the COVID-19 pandemic, appropriate disclosures in accordance with IPSAS 14 would have to be made by Management and, in the External Auditor's view, this type of subsequent event would not require adjustment to the financial statements, but would require disclosure. The Committee also took note of the External Auditor's comments that while the COVID-19 pandemic has high potential impact, the Financial Statements indicated that WIPO had a sound and stable financial position given its expected revenues and reserves. The External Auditor added that WIPO was very well placed compared to other Organizations in the UN system to weather the financial uncertainty.

26. The Committee was pleased with the continued interaction with the External Auditor.

Financial Reporting

27. At its 54th session, the Committee was briefed on the Proposed Program and Budget for 2020/21 Biennium that was presented at the 29th and 30th sessions of the Program and Budget Committee.

28. At its 56th session, the Committee reviewed with Management the draft financial statements for 2019. Overall, the Committee found the draft financial statements to be very clear, with good analysis and detailed notes. The Committee noted that WIPO's financial position of 2019 was better than 2018, based on its better Financial Performance in 2019. The draft Statement of Financial Position showed that, as at December 31, 2019, WIPO had net assets of Swiss francs 364.2 million, with total assets of Swiss francs 1,225.9 million and total liabilities of Swiss francs 861.7 million. During the 2018/19 Biennium, the WIPO's net assets increased by Swiss francs 161.5 million. The Committee noted that this was mainly due to the surplus in both 2018 and 2019, totaling Swiss francs 140.2 million.

29. In view of the COVID-19 pandemic, the Committee inquired if it involved any change in the investment policy and/or had an impact on WIPO's financial management. Management assured the Committee that they were closely tracking the financial situation as WIPO would obviously be impacted by the pandemic. Management informed the Committee that there has been no decline in incoming cash so far. Management assured the Committee that WIPO's investment policy and long-term strategy had been designed to withstand difficult periods, such as the ongoing crisis due to the pandemic. As such, WIPO was continuing to make investments in accordance with the same investment policy and strategy.

Implementation of Oversight Recommendations

30. At its 56th session, the Committee took note of the 130 outstanding oversight recommendations, of which 38 per cent are of high priority. The Committee also noted that

during the then reporting period, 30 recommendations had been closed and that overdue recommendations had increased from 48 to 54. The Committee was satisfied with the monitoring and reporting performed by IOD on the implementation status of oversight recommendations. Nonetheless, the Committee wished to be apprised again of the criteria for closing recommendations.

Ethics and Ombudsperson

Ethics Office

31. At its 54th session, the Committee discussed with the Chief Ethics Officer the Annual Report of the Ethics Office to the WIPO Coordination Committee (WO/CC/76/INF/2). In particular, the Committee requested clarification and information on statistics provided in paragraphs 24 and 25 of the Annual Report. This concerns determinations by the Chief Ethics Officer of complaints of retaliation and review of such determinations by the Ethics Office of the United Nations Office for Project Services.

32. At its 55th session, the Committee reviewed the draft Ethics Office Workplan for 2020 and found it suitable for finalization. The Committee provided advice to improve it, such as including suitable workload or caseload indicators. The final Ethics Office Workplan for 2020 and implementation status were received from the Ethics Office on the day of the virtual 56th session of the IAOC. The Committee decided to consider these documents through email circulation among the members and to request responses from the Chief Ethics Officer to their queries/observations. Regular review of Ethics Office will be included in the agenda for the 57th session of the IAOC.

33. For two consecutive sessions (54th and 55th), the Committee noted with concern that two out of 12 recommendations remain unimplemented from the Audit of WIPO's Ethics Framework (IA-2016-06).

Office Instruction on WIPO Ethics Office

34. At its 54th session, the Committee discussed with the Chief Ethics Officer the revised draft Office Instruction on the Ethics Office, which the Committee received on July 26, 2019. The Committee regrets that its prior advice on a number of points was not taken into account in the revised version. In particular, the Committee was not satisfied with the explanation provided by the Chief Ethics Officer concerning the interaction between the Ethics Office and the IAOC in resolving situations of actual or potential conflicts of interest. The Committee had provided advice, as far back as May 2018 to the Director General and the Chief Ethics Officer on the proposed Office Instruction and on specific language suggested. Unfortunately, the revised draft failed to address mechanisms intended to implement the principles set out in the IAOC Terms of Reference. At that time, the Committee had emphasized that the involvement of the Oversight Committee in the ethics function followed the practice of a number of other UN organizations and that, for the sake of clarity, the interaction between the Ethics Office and the IAOC should be mirrored in the Ethics Office's own Terms of Reference.

35. At its 55th session, the Committee reviewed the draft Office Instruction, which has been further amended in response to the comments provided by the Committee in March 2019. The Committee was finally satisfied that the revised draft properly reflects the interaction between the Ethics Office and the IAOC.

WIPO Policy to Protect against Retaliation

36. During the 55th session in December 2019, the Committee expressed its concern about the effectiveness of the Whistleblower Protection in WIPO (OI/33/2017), which has been in force since September 2017. The Committee noted a case where the Chief Ethics Officer was

advised in May 2018 that she was in a conflict of interest situation. As the Chief Ethics Officer did not designate an alternative acceptable to the complainant, the conflict of interest situation remains unresolved up to the time of writing this report. As a result, the final determination on the complaint has been pending since the completion in April 2019 of the investigation of the case. The Committee had recommended in its 54th session that the Chief Ethics Officer designate, as an alternative, an Ethics Officer of another UN system organization in order to bring the matter to a close. The Chief Ethics Officer chose not to follow this advice on the basis that she “consider(s) that paragraph 30 of WIPO Office Instruction 33/2017 envisages that the person to be designated as an alternative to act in (her) stead, should be a suitable staff member from within WIPO (and not from outside WIPO).” The Committee disagreed.

37. In the view of the Committee, the provisions of the Policy to Protect against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations (Office Instruction No. 33/2017) concerning conflict of interest should be further strengthened in order to protect the integrity of the process.

Ombudsperson

38. At its 54th session, the Committee discussed with the Ombudsperson his Activity Report for 2018. The Committee was pleased to note from the report that in 2018 there had been an increase in preventive consultations at his office. The Ombudsperson made three broad spectrum recommendations, the implementation of which the Committee intends to monitor. These recommendations are: (1) conduct a study on gender issues at WIPO to understand why the Office of the Ombudsperson’s gender statistics are out of step with the actual demographics of the Organization, followed by appropriate corrective measures; (2) develop a mandatory team management and leadership training curriculum focusing on building capacity for dialogue, team collaboration and support for team members; strengthen support for middle managers in particular; and (3) establish a follow-up process for the Ombudsperson’s annual recommendations by involving the bodies concerned (management, employee representatives, human resources, health services, etc.).

39. The Committee noted the high quality of the Ombudsperson’s report and recommended to Member States that they consider requesting access to his regular Activity Reports.

Other matters

New working format during COVID-19 pandemic

40. In view of the limited time available for video conferencing involving different time zones for members of the Committee, the IAOC discussed a new format of working offline. Accordingly, some of the more voluminous documents could be reviewed by the Committee prior to the video conference. The comments as a result of such a review could then be consolidated and forwarded to Management for offline responses. Additional questions and further clarifications, if any, could be taken up in the online video session.

WIPO Investment Reports

41. As requested by Member States, Management submitted to the Committee at each of its sessions the monthly Investment Performance Reports and the monthly Investment Monitoring Reports, prepared by the Investment Advisors and the Custodian, respectively. The Committee wishes to clarify that its role is limited to conveying information contained in the Investment Performance Report and Investment Monitoring Report and does not provide any assurances in that regard.

42. Based on the periodic reviews, the Committee confirmed that the information provided during IAOC’s reporting period from June 15, 2019 to April 23, 2020, showed that, during the

period of review and based on the investment market benchmark, all the vehicles in WIPO's investment portfolio delivered the expected results and were managed in accordance with the stated Investment Strategy. In addition, the Committee confirmed that the Custodian did not report any breaches, active or passive, nor justified exceptions. As noted in the 56th session (see paragraph 29 herein), despite the COVID-19 pandemic, no changes have been made so far in the investment policy.

Briefing with the Chairs of the WIPO General Assembly and of the WIPO Coordination Committee

43. During the 56th session, the Chair and Vice Chair informed the Committee that a virtual introductory meeting was held with the Chairs of the WIPO General Assembly and of the WIPO Coordination Committee. The discussions related to some of the issues that required consultations.

IV. CLOSING REMARKS

44. The IAOC would like to express its appreciation to the Director General, the Director, IOD, the Controller, the Chief Ethics Officer, the Ombudsperson and other senior managers, as well as the External Auditors, for their availability, clarity and openness in their regular interaction with the Committee, and for the information provided.

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