

Program and Budget Committee

Thirty-Fourth Session
Geneva, June 27 to July 1, 2022

PRELIMINARY DRAFT OF THE TERMS OF REFERENCE OF THE 2021 EVALUATION OF WIPO EXTERNAL OFFICES

prepared by the Secretariat

1. At the Thirty-Third PBC session of the Program and Budget Committee (PBC) in September 2021, the PBC requested the WIPO Secretariat to provide a preliminary draft of the Terms of Reference of the 2021 Evaluation of WIPO External Offices, on the basis of inputs received from Member States, at least six months before the Thirty-Fourth PBC session. These inputs are reflected in square brackets throughout the document.

A. Context and Purpose

2. The evaluation of the WIPO External Offices is to be undertaken in response to the decisions of the WIPO Member States noting, in particular, the following:

The decision of the Forty-Seventh (22nd Ordinary) Session of the WIPO General Assembly (October 5 to 14, 2015) to conduct “*an evaluation during 2021*” with reference to the ‘Guiding Principles regarding WIPO External Offices’ paragraph 22 of which states, “*The size and performance of the entire EO network shall be evaluated every five years by the PBC, which may request the support of WIPO External Auditors or independent external evaluators, with due regard to the different mandates and functions performed by the EOs. The terms of reference of such evaluation shall be decided by the PBC.*”¹

3. The WIPO General Assembly at its Fifty-First (24th Ordinary) Session (September 30 to October 9, 2019) further decided to conduct an evaluation during 2021 of the entire network of

¹ A/55/INF/11

WIPO External Offices with the Terms of Reference of such an evaluation to be decided by the WIPO Program and Budget Committee during its Thirty-First session in 2020. The General Assembly further decided²:

“pending the results of the evaluation during 2021, defer the consideration of the current 10 applications of Member States for the 2018-2019 biennium to host new WIPO External Offices”

“consider opening up to 4 new WIPO External Offices, including in Colombia, from the current 10 applications in the biennium 2022-2023.”

4. Noting that the Thirty-First session of the Program and Budget Committee was unable to discuss the Terms of Reference owing to the COVID-19 pandemic, the Thirty-Third session of the Program and Budget Committee (September 13 to 17, 2021) took the following decision³:

“The Program and Budget Committee (PBC) took note of the update on the status and progress of submissions made by Member States on views on the preparations of the Terms of Reference (ToR) of the 2021 Evaluation of WIPO External Offices and requested the Secretariat:

- to develop a preliminary draft of the ToR taking into account the above-mentioned submissions by Member States reflecting all views contained therein and all relevant documents, including but not limited to the Guiding Principles regarding WIPO External Offices (document A/55/INF/11) and the Report of the External Auditor (document WO/PBC/31/3); and*
- to provide a preliminary draft to Member States at least 6 months before the 34th session of the PBC with the aim of discussing and further developing common understanding about the ToR’s content and taking a decision on the ToR at the 34th session of the PBC.”*

5. Based on the preceding, and as prescribed in the ‘Guiding Principles’, the purpose of the evaluation will be to examine the size and performance of the network of WIPO External Offices. The evaluation is to inform the deliberations of the Member States with respect to the pending applications from 10 Member States to host up to four new WIPO External Offices, noting that the decision on any new WIPO External Offices is a decision of the Member States in accordance with the decision of the Forty-Seventh Session of the WIPO General Assembly and the ‘Guiding Principles’ which it approved.

6. In this context, the evaluation is intended to:

- [Improve the efficiency and effectiveness of individual External Offices or the network of External Offices toward informing a clear strategy to underpin the development of the network and whether to expand or contract the network as necessary, as identified and recommended by the External Auditor.]
- [Conduct an assessment of WIPO External Office activities, in consultation with the host country and the individual External Offices throughout the process on its impact, efficiency and effectiveness to program delivery of the Program and Budget. As such, the evaluation is intended to assist External Offices to improve their operations and

² A/59/13 ADD.4

³ WO/PBC/33/14

service delivery and identify practical best practices of individual External Offices for possible adoption across the entire network of External Offices.]

- [Examine the process and feasibility of opening new External Offices.]
- [Provide critical information from which WIPO could develop a coherent strategy for the future of the External Office network and a sound basis for future decision making. It is important that in creating this strategy it incorporates a framework against which the Secretariat can better support the Member States decision making and the assessment of any future cases.]

B. Subject

7. The WIPO External Offices are the extended arms of the Organization in the field. Based on their detailed understanding of their areas of responsibility, the Offices catalyze what WIPO can offer, collaborating closely with WIPO Headquarters and connecting the Organization's assistance, services, and tools with evolving needs and priorities on the ground.⁴

8. This evaluation will cover the seven offices that comprise the External Office network in WIPO. These offices are:

- WIPO Algeria Office (WAO)
- WIPO Brazil Office (WBO)
- WIPO Office in China (WOC)
- WIPO Japan Office (WJO)
- WIPO Nigeria Office (WNO)
- WIPO Office in the Russian Federation (WRO)
- WIPO Singapore Office (WSO)

C. Scope

9. The evaluator should conduct an overview of the activities of the External Offices and how these contribute to WIPO's objectives. [The evaluation will focus on the activities of WIPO External Offices implemented in the 2018/19 and 2020/21 biennia, taking into account the presence of recently opened External Offices and the impact of the COVID-19 pandemic on all External Offices and their host countries. For a more comprehensive understanding of the outcomes and impact of the External Offices, the evaluation may consider reviewing the activities of the External Offices over a longer period, i.e. 5 years (if applicable).]

D. Objectives

10. In furtherance of the purpose of the evaluation and within the mentioned scope, the objectives of the evaluation will be to:

- [Review and evaluate the achievements, effectiveness, and efficiency of the External Offices. It should provide evaluation on the basis of the performance indicators for External Offices as outlined in WIPO's Program and Budget, giving due cognizance to the length of operation of the External Offices, the different levels of development in their respective host countries and the kinds of services they provide.]
- [Enumerate an unbiased, uniform and transparent assessment tool to provide an accountable, effective and informative evaluation to Member States]

⁴ WIPO Program of Work and Budget for 2022/23, page 39 of the English version.

- [Assess whether the work of the External Office network applies the priorities set out in the 'Guiding Principles', WIPO's Medium-Term Strategic Plan for 2016-2021, and whether it contributes to the achievement of the Strategic Goals.]
- [Provide an insight into the unique circumstances and local contexts influencing the implementation priorities of the External Offices, and with a view to the prospects of further developing the External Office network.]

11. In line with 'Norms and Standards for Evaluation' (2016) of the UN Evaluation Group, a non-exhaustive list of possible evaluation questions is provided in Annex I.

E. Methodology

12. In order to address the evaluation questions contained in Annex I, the methodology of the evaluation should be guided by the following considerations:

- [The evaluation will adopt both a retrospective as well as forward-looking approach.]
- [The evaluation should focus on a set of indicators and common parameters that are uniform/consistent between External Offices to be able to evaluate performance of individual External Offices.]
- [The evaluation should assess performance using all relevant performance indicators and targets, taking into account users' and stakeholders' feedback.]
- [The evaluation should take into account the different profiles, mandates, contexts and circumstances of existing External Offices, as well as the diverse aspects and levels of development among host countries and of local IP ecosystems.]
- [Empirical and objective criterion should be devised to measure the added value, efficiency and effectiveness of the External Offices.]
- [The External Offices themselves should participate in the evaluation process and provide replies or opinions on the criteria used for making the evaluations.] [The evaluation should include the active participation of the External Offices.]
- [The host countries and their respective external offices should be consulted in a timely and adequate manner.]
- [The Evaluation should make references and integrate appropriate international principles on evaluations and audits.]
- [The evaluation shall be conducted in accordance with the United Nations Evaluation Group (UNEG) Standards for Evaluation in the UN System and the UNEG Code of Conduct for Evaluation in the UN System.]
- [The External Offices are solely WIPO entities and as such, they are to be evaluated in relation to the WIPO results-based management framework.]

13. Based on the abovementioned considerations, the evaluation team will undertake, *inter alia*, the following:

- A desk review of relevant documents. This should include pertinent documents related to the work of the External Offices, the WIPO Assemblies, the WIPO Program and Budget Committee, and the External Auditor's Report. Additional documentation such as project documents and periodic progress reports, should also be included in the desk review.
- The desk review should be complemented by interviews with all relevant internal stakeholders, including the External Offices.
- Surveys and, as required, interviews should be undertaken with relevant external stakeholders (at the regional and national levels, including beneficiaries of the activities of the External Offices, and host country authorities.)

14. [Empirical and objective criterion should be devised to measure the added value, efficiency and effectiveness of the External Offices.] A non-exhaustive listing of possible criteria is contained in Annex II.

F. Management Arrangements

15. The evaluation will be conducted by:

- [an independent/neutral organization and/or individual, knowledgeable in IP and innovation]
- [An independent body outside of WIPO so as to ensure the neutrality and objectivity of the evaluation.]
- [The WIPO Internal Oversight Department (IOD)] [supported, when necessary, by third parties such as the WIPO External Auditors and independent external evaluators.]
- [An independent external evaluator.] [In this regard, a committee should be established comprising [three or five] independent external evaluators, possibly one from the United Nations Evaluation Group and others from similar institutions.]
- [The WIPO External Auditors or independent external evaluators.]

16. [The WIPO Secretariat should be actively engaged in conducting the evaluation given its expertise.]

17. [The evaluation team should possess the requisite skills and knowledge required to conduct the evaluation in a credible and independent manner. The IOD Director will be the Team Leader responsible for conducting the evaluation and delivering the outputs as per the Terms of Reference. Program specialists working under the different projects covered by the evaluation should be available to meet (directly or indirectly) with the evaluation team. They should provide additional information when necessary.]

18. [The evaluation will be conducted within the budget of IOD.]

G. Expected deliverables and process

19. The following are the expected deliverables of the evaluation in sequential order:

- Final Terms of Reference: to be agreed by the Member States

- Inception report: to include, *inter alia*, an evaluation matrix based on the evaluation questions and criteria of the Terms of Reference; an analysis of available data; an analysis of relevant stakeholders to be consulted during the evaluation process; and draft tools for data collection and analysis.
- Preliminary findings and conclusions: resulting from a comprehensive process of data analysis, triangulation and validation; to be presented to the Member States.
- First draft of the evaluation report: highlighting findings, conclusions and strategic recommendations; to be presented to the Member States.
- Second and final draft of the evaluation report: incorporating comments received on the first draft; to be shared with the WIPO Secretariat and presented to the WIPO Program and Budget Committee.

20. [The WIPO Secretariat will be responsible for monitoring the implementation status of management actions and timeframes related to evaluation recommendations, in consultation with the PBC, as appropriate.]

H. Timetable

21. While some Member States presented detailed input concerning the timetable for the evaluation, this input is now out of date. Clearly, the timetable for the evaluation process will be driven by the progress of negotiations among the Member States on the Terms of Reference. Consequently, it is not possible at this time to articulate a timetable for the evaluation. In this regard, it should be noted that the Thirty-Fourth session of the WIPO Program and Budget Committee will be held from June 27 to July 1, 2022. It should further be noted that in line with the WIPO Languages Policy, documents for the Program and Budget Committee would need to be translated into all six languages of the UN System. Furthermore, in accordance with established procedure in WIPO, documents would need to be submitted to the Committee at least two months in advance.

[Annex I follows]

Annex I – Non-exhaustive list of possible evaluation questions

(i) From the ‘Guiding Principles’

- Is the WIPO External Offices network sustainable?
- Is the WIPO External Offices network adequately sized?
- Does the WIPO External Offices network add clear value?
- Does the WIPO External Offices network bring efficiency and effectiveness to program delivery?
- Does the WIPO External Offices network operate in accordance with the WIPO Results Framework?
- Does the WIPO External Offices network operate in a coordinated way with WIPO Headquarters?
- Does the WIPO External Offices network deliver results in a way that may not otherwise be achieved through operations at WIPO Headquarters?

(ii) From the Report of the External Auditor

- What is the additional contribution or impact External Offices make to the overall achievement of objectives?
- Following from a process evaluation, how do the External Offices operate in practice and work with other stakeholders?
- What are the overall costs incurred in maintaining current arrangements and what are the relative cost benefits against other means of achieving similar outcomes?
- What would be the business risks which flow from the maintenance or expansion of the network?

(iii) Supplementary and additional questions from the inputs of the Member States

Consistency with the ‘Guiding Principles’

- To what extent does each External Office comply with the ‘Guiding Principles regarding WIPO External Offices’?

Consistency with the Results Framework and contributions to Strategic Goals

- How closely do the activities of the External Offices align with WIPO’s Medium-Term Strategic Plan?
- How have the External Offices allowed WIPO to extend its outreach to explain the potential for intellectual property to improve the lives of everyone, everywhere?
- How have the External Offices helped Member States in the development of the IP ecosystems?
- What are the main factors that have facilitated or obstructed the achievement of expected results by External Offices?
- Is the Results Framework for the External Offices – as a network and individually – suitable and optimal? Does it support accountability?

Program implementation - considerations

- Are projects implemented within the framework of annual workplans using good practice project management tools (planning, design, monitoring and evaluation) and are results frameworks at the project level adequately linked to Organizational Goals and Expected Results?

- Are adequate monitoring and evaluation mechanisms in place to ensure that: a) information on results achieved is captured; b) information on progress made is available; c) lessons learned are generated for the design of future activities; and d) the future assessment of impact is facilitated?
- What are the implications of the shift to remote working brought on by the COVID-19 pandemic for the functioning of the External Offices? Can online platforms developed during the pandemic partially or completely take over the role of existing or future External Offices?

Support for WIPO's Global IP Services

- In what ways are the External Offices conducting initiatives for users of the IP systems, especially for SMEs, startups, and young people, to enhance innovation and creativity?

Management and internal coordination

- Do the activity reports and plans prepared by the External Offices align with the agreed work plans of the respective External Offices? What measures could be undertaken to enhance the activity reports and plans produced by external offices?
- Are External Offices' operations and the flow of information between Offices and the headquarters effective?
- How do the External Offices and the WIPO Regional Divisions negotiate areas of focus and ways of working and is their collaboration and cooperation efficient and effective?
- Does the performance of External Offices depend on the effective realization of key administrative processes managed by Headquarters? Are there any hurdles?
- How is the functioning of External Offices coordinated within the Secretariat and with Member States, including with host countries? Do the existing coordination mechanisms facilitate efficient and effective delivery in accordance with the Results Framework? If not, what measures or mechanisms should be put in place to improve performance?

Engagement with stakeholders

- How do External Offices operate in practice and work with national/regional stakeholders?
- What is the stakeholder assessment of the contribution made by External Offices?
- To what extent are the activities and outputs of External Offices aligned with the needs and demands of stakeholders, users and target groups?

Budget and cost efficiency consideration

- What cost efficiency measures could be introduced without impeding the achievement of results by External Offices?
- What are the criteria for budget allocation among different External Offices?
- Are the personnel and non-personnel resources allocated to the External Offices sufficient for the achievement of expected results?
- What are the costs and benefits of delivering activities either through the External Offices or through WIPO Headquarters?

Host country considerations

- What kind of support does each External Office receive from its host country?

Coverage of the External Offices

- What would be the implications of existing External Offices conducting approved WIPO program activities within a group of countries or Regional Group, as agreed by the Member States involved (without prejudice to the scope of the existing External Offices)?

UN Sustainable Development Goals?

- What activities are the External Offices conducting to contribute to achievement of the Sustainable Development Goals (SDGs)?

[Annex II follows]

Annex II – Non-exhaustive listing of possible evaluation criteria

(i) From the ‘Guiding Principles’

The nature and effectiveness of:

- collaboration with the national IP office(s) of the host country(ies)
- the promotion of the effective use of WIPO’s Global IP Services
- activities designed to raise awareness of intellectual property
- the delivery of customer service to the users of WIPO’s Global IP Services, including treaties and conventions administered by WIPO
- the provision of assistance for using IP as a tool for promoting development and transfer of technology
- the provision of policy and technical support to national IP offices to increase the use of intellectual property

(ii) Supplementary and additional criteria from the input of the Member States and the Report of the External Auditor

Consistency with the Results Framework and contributions to Strategic Goals

- Performance of the individual External Offices in achieving Expected Results under the WIPO Results Framework, as reported by the WIPO Performance Reports.
- Impact of the activities of External Offices, including the provision of information, on building respect for intellectual property.
- Analysis of activities of the External Offices designed to raise awareness of the importance of the IP system among SMEs and startups.
- Analysis of the nature and effectiveness of the policy and technical support provided by External Offices to IP offices.

Program implementation - considerations

- A comparative analysis of each office's workplans and respective compliance reports, highlighting governance in each office, the distribution of activities and any special characteristics of those activities.
- The percentage of activities of External Offices which are also performed by the Secretariat through online or in-person activities.

Support for WIPO’s Global IP Services

- Assessment of feedback from users of External Offices’ services.
- Volume of applications for the PCT, Hague and Madrid systems from the areas of responsibility of an External Office, over time.

Management and internal coordination

- Adequacy of management controls and systems, procedures and the reliability of information for decision-making and accountability purposes.

Engagement with stakeholders

- Number of contacts which External Offices have, in particular with SMEs and start-ups.
- Utilization of External Offices by stakeholders within the area of responsibility of an External Office including, where applicable, outside of the host country.
- Assessment of feedback from stakeholders of External Offices.

Budget and cost efficiency consideration

- Budget allocated to the External Offices and their expenditure since their inception.

Host country considerations

- Contributions provided to External Offices by host countries.
- A detailed cost analysis for each office and a breakdown of the amounts provided by their host countries, enabling a comparison between the two.

[End of Annex II and of
document]