

APPENDIX 3

FLEXIBILITY FORMULAS: ADJUSTING BUDGET TO WORKLOAD IN GLOBAL PROTECTION SYSTEMS AND SERVICES

General

488. This appendix describes the flexibility formulas for adjusting the budget of global protection systems and services to actual workload. In addition, adjustments are proposed for the flexibility formulas applicable to the Madrid Union and the Hague Union. Finally, it is proposed to introduce a flexibility formula for the WIPO Internet domain name dispute resolution service.

489. The flexibility formulas recognize that there exists a direct link between fluctuations in the overall workload and requirements for staff support in the global protection systems and services. These formulas provide for a justifiable increase in the number of posts in case of higher than anticipated increases in the workload, as they also require corresponding decreases in posts in case of lower than anticipated levels of workload. Workload fluctuations change the requirements for staff support primarily in the units concerned with the processing of applications, and also in units providing related services. The units concerned with global protection systems and services perform tasks such as inputting data in computer systems; examining the applications as to form, preparing the necessary notifications to Contracting Parties and communications to applicants and holders; preparing the necessary translation of applications and reports; preparing and publishing pamphlets and gazettes (for a more detailed description of activities, see Main Programs 06, 07 and 11). Other WIPO units provide several other services in support of the units in charge of global protection systems and services. In particular, the Human Resources Management Division provides related staff management services, the Division of Finance processes related financial transactions, the IT Services Division supports the computer systems used to operate the registration systems, the Buildings Division provides office space and related maintenance services to staff, the Printing Services produces printed material to be disseminated to applicants and to patent and trademark offices, the Corporate Image and Product Development Section sells and distributes gazettes and other printed material to the public, and other administrative and managerial services of WIPO also contribute to the support of global protection systems and services (for a more detailed description of activities, see the description of each program). The budgetary implications of the flexibility formulas are determined by identifying the staff expenses at the G6 level (average examiner's grade) and by apportioning related costs for the maintenance and, if applicable, the renting of office space. Total staff and related costs for each post amount to Sfr324,000 per biennium in each of the 2000-2001 and 2002-2003 biennia.

International Patent Cooperation Union (PCT Union)

490. The General Assembly and the PCT Union approved in 1989 the flexibility formulas for PCT as described in paragraph 7 to 14 of document PCT/A/XVI/1. As noted in paragraph 10 of that document, variations of 242 international applications or 1,440 Chapter II demands lead to an adjustment of one post in the PCT Union budget. Moreover, further interpretation were provided in paragraph 9 (a) of document AB/XXVI/4 issued on May 29, 1995, providing for the introduction of a provision for supervision of variable posts.

491. Within the PCT Union budget, the number of posts determined according to the approved flexibility formulas are allocated between the Office of the PCT and other offices according to a 75:25 ratio. The additional income generated by the number of international applications and Chapter II demands which justify one additional post amounts to Sfr429,000 in 2000-2001 and Sfr347,000 in 2002-2003, exceeding the direct and related annual cost of Sfr162,000 for each flexibility post by Sfr267,000 in 2000-2001 and by Sfr185,000 in 2002-2003.

492. It is anticipated that the IMPACT Project will result in major efficiency gains for the PCT operation starting 2004. As a result, the current flexibility formula will be revised to reflect that less posts will need to be created in case of increasing workload and more posts can be abolished in case of decreasing workload. Furthermore, on account of expected future productivity gains the 2000-2001 program and budget took into account productivity to be gained through automation (see A/34/2, page 119). These gains were quantified at 106 posts which were not created, and whose jobs are currently covered through short-term employees until such gains will materialize.

Special Union for the International Registration of Marks (Madrid Union)

493. In 1989, the Assembly of the Madrid Union noted (see document MM/A/XXI/3, paragraph 18(i)) and, by adopting the budget for the 1990-1991 biennium, approved the application of the flexibility formula for the Madrid Union described in paragraphs 8 to 15 of document MM/A/XXI/1. According to that formula (see paragraph 11 of document MM/A/XXI/1), variations of 731 international registrations and renewals led to an adjustment of one post in the budget of the Madrid Union. That formula was first revised in 1993 to take account of the increasing workload generated by the increase in the number of modifications entered in the International Register (consequent upon the growth in the International Register) and in the number of notifications of refusal to be processed (consequent upon the growth in the membership of the Madrid Union and in the number of designations). The 1993 revised formula provided for a correction factor equal to half of the percentage increase in the ratio of modifications and renewals to registrations and renewals observed the preceding year *vis-à-vis* the ratio observed in 1988 (see document MM/A/XXV/1, paragraph 46). At the time, this resulted in lowering the number of registrations and renewals necessary to trigger an adjustment of one post from 731 to 678. The formula was again revised in 1995 by introducing a further correction factor of 10 per cent for the supervision of additional posts generated by increasing registration activity (see document AB/XXVI/4, paragraph 9). At the

time, this resulted in lowering the number of registrations and renewals necessary to trigger an adjustment of one post to 588.

494. Applying the 1989 formula, as revised in 1993 and 1995, to the number of registrations and renewals, modifications and notifications of refusal processed in 2000 would result in an adjustment of one post for each 546 registrations and renewals. However, it is believed that the efficiency gains resulting from the automation of the international procedure should allow the International Trademark Registry to operate with an adjustment of one post for a variation of 600 international applications and renewals. It is argued that the gain in productivity because of automation of the registry is much higher, because the new productivity ratio takes in addition three new factors not accounted for in the earlier ratio: (i) the additional complexity in the international registration procedure resulting from the entry into force of the Madrid Protocol in 1996, (ii) the new tasks devolving on the International Trademark Registry, such as the translation from English into French or *vice versa* of, currently, some two thirds of international applications, and (iii) the workload derived from the expanding membership of the Madrid Union (that went from 42 members on January 1, 1995, to 67 on December 31, 2000). It is proposed that the new productivity ratio be applied starting in the current 2000-2001 biennium.

495. It is to be noted here that the proposed new formula refers to international applications rather than registrations insofar as it is the number of applications that determines the required staff resources whereas registrations depend on available staff resources. It is also to be noted that, within the Madrid Union budget, the number of posts determined according to the flexibility formula are allocated in full to the International Registrations Department. Related support posts, particularly in the Information Technology and the Finance Divisions are accommodated within their regular budget submissions. The additional income generated by the number of registrations and renewals which justify one additional post amounts to Sfr502,000 in 2000-2001 and 2002-2003, exceeding the direct and related annual cost of Sfr162,000 for each flexibility post by Sfr340,000 in both biennia.

Special Union for the International Deposit of Industrial Designs (Hague Union)

496. In 1989, the Assembly of the Hague Union noted (see document H/A/X/2, paragraph 14(i)) and, by adopting the budget for the 1990-1991 biennium, approved the application of the flexibility formula for the Hague Union described in paragraphs 11 to 18 of document H/A/X/1. According to that formula (see document H/A/X/1, paragraphs 13 and 14), the number of international deposits and renewals that led to an adjustment of one post in the budget of the Hague Union was expected to increase from 640 in 1989 to 757 in 1991 on account of productivity gains that were expected to result from the computerization of Hague operations—productivity gains, however, did not start to materialize until 1995 when the first (interim) computerization system of Hague operations, introduced in 1994, was stabilized. That formula was revised in 1993 to take account of the increase in the number of industrial designs contained in international deposits made under the 1960 Act of the Hague Agreement. The 1993 revised formula, still based on an adjustment of one post for 640

deposits and renewals (see document MM/A/XXV/1, paragraph 43), provided for a correction factor equal to half of the percentage increase in the average number of industrial designs per "1960 Act" deposits observed in the preceding year *vis-à-vis* the average number observed in 1988 (see document MM/A/XXV/1, paragraph 47). At the time, this resulted in lowering the number of deposits and renewals necessary to trigger an adjustment of one post to 588. Applying the 1989 formula, as revised in 1993, to the number of deposits and renewals processed in 2000, it would result in an adjustment of one post for each 562 deposits and renewals.

497. Computerization of the Hague operations, however, which has now been completed on the same platform as the Madrid operations, has allowed significant productivity gains in the International Designs Registry. On the other hand, the replacement in 1999 of the paper publication of reproductions of industrial designs by a publication on CD-ROM, which has allowed considerable savings on the publication cost of the *International Designs Bulletin* (in the range of Sfr. 750,000 per year) and a 20 per cent reduction in the publication fee as of January 1, 1999, entails (as mentioned in document H/A/17/1) additional staff resources for the work involved in the digitization and processing of the said reproductions. For the current level of 1960 Act deposits, two full-time clerks are necessary.

498. Taking the above into consideration, the International Designs Registry should be able to operate with an adjustment of one post for a variation of 600 deposits and renewals. It is proposed that the new productivity ratio be applied starting in the current 2000-2001 biennium.

499. Within the Hague Union budget, the number of posts determined according to the flexibility formula are allocated in full to the International Registrations Department. Related support posts, particularly in the Information Technology and the Finance Divisions are accommodated within their regular budget submissions. The additional income generated by the number of deposits and renewals which justify one additional post amounts to Sfr421,000 in 2000-2001 and 2002-2003, exceeding the direct and related cost of Sfr162,000 for each flexibility post by Sfr259,000 in both biennia.

WIPO Internet domain name dispute resolution process

500. It is proposed to apply a new flexibility formula arrangement for the Internet domain name dispute resolution service which was approved by Member States in September 1998. As noted in the sub-program 03.4 of the draft program and budget 2000-2001 (A/34/2), it was considered exceptionally difficult to predict the demands for this service and to determine the associated costs and required level of fee income for the initial period of the new dispute resolution process. Indeed, initial assumptions have proven inadequate. Whereas a number of 1,200 dispute cases had been projected for the biennium 2000-2001, it is anticipated that the actual number will be close to 4,500.

501. With the increase in operation, experience has been accumulated on the cost of providing the dispute resolution service. Following an in-house review, it has been concluded

that resources equivalent to one post is required to administer a workload of 100 dispute resolution cases per year. The work involved includes in particular in-house case management, registrar contracts, liaison with panelists, and decision index support among others. The on-line dispute resolution system distributes the posts between the arbitration center and services from other departments according to a ratio of 83:17. In order to provide for cost recovery, the fee payable to WIPO by the recipients of the service (excluding those fees that WIPO forwards to the panelists) was increased from US\$250 in 2000 to US\$500 in 2001. It is further proposed it becomes US\$1,000 as of 2002.

502. As in the case of PCT, Madrid and The Hague Union, the workload for the dispute resolution process fluctuates in accordance with the demands for services addressed to WIPO. The resulting workload is subject to fluctuations and it is difficult to project. Moreover, it is expected that the application of the dispute resolution process to new top-level domains and to new registrations in non-Roman script will introduce additional difficulties in anticipating the workload level with sufficient accuracy in the coming years. It is therefore recommended to introduce a flexibility formula for the WIPO Internet domain name dispute resolution process. As in the case of the existing arrangement for PCT, Madrid and The Hague, the new formula provides for justifiable increases in the resources to process additional filings in case of increases in the workload, while providing for corresponding decreases in posts in case of lower than anticipated level of workload. To refer the adjustment of resources with actual workload levels to the biennial program and budget process would render the on-line dispute resolution service inflexible to cope with changes in market forces.

503. It is therefore proposed to determine that the flexibility formula provides for the adjustment of one post for the administration of 100 dispute resolution cases in the biennium 2000-2001. The total adjustment in the number of posts is to be allocated between the Arbitration and Mediation Services and other offices of WIPO according to an 83:17 ratio for the biennium 2000-2001 and 2002-2003. The additional income generated by the number of filings, which justify one additional post amounts to Sfr85,000 in 2001, not yet sufficient to cover the annual cost of the flexibility post (Sfr162,000). With the proposed fee at US\$1,000, full cost-recovery is expected in 2002-2003. Finally, based on the experienced gained during the 2002-2003 biennium, it is proposed to review the flexibility formula for the WIPO Internet domain name dispute resolution service in the context of the proposed program and budget for the 2004-2005 biennium.

[Appendix 4 follows]