

Assemblies of the Member States of WIPO

Fifty-Fifth Series of Meetings
Geneva, October 5 to 14, 2015

**UNDERSTANDING OF THE UNITED STATES OF THE UNITARY CONTRIBUTION
SYSTEM AND THE UNITARY BUDGET AS THEY RELATE TO THE LISBON
AGREEMENT**

Document prepared by the Secretariat

In a communication transmitted October 1, 2015, a copy of which is set out in the Annex, the Delegation of the United States of America requested that its submission entitled "Understanding of the United States of the Unitary Contribution System and the Unitary Budget as they Relate to the Lisbon Agreement" be made available for consideration as an official information document under Agenda Item 11 "Report on the Program and Budget Committee."

[Annex follows]



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

World Intellectual Property Organization (WIPO)
34, chemin des Colombettes
1211 Geneva, Switzerland

Dear Madam, Dear Sir,

On behalf of the United States, I have the pleasure to submit the attached explanatory document to the Fifty-Fifth Series of Meetings of the WIPO Assemblies and the Forty-Seventh (22nd Ordinary) WIPO General Assembly of October 5-14, 2015. This document is submitted for consideration as an official information document to the Assemblies, under Agenda Item 11 (Report of the Program and Budget Committee) of the Draft Consolidated and Annotated Agenda (A/55/1 Prov. 4). The document was also distributed to the 24th Session of the Program and Budget Committee.

I would be grateful if you would circulate this document.

Yours sincerely,

Karin Ferriter

Enclosure

Understanding of the United States of the Unitary Contribution System and the Unitary Budget as they Relate to the Lisbon Agreement

We have heard concerns that the U.S. proposal for the Lisbon Union to have a balanced budget using one or more of the funding sources identified in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Lisbon Agreement) challenges the Unitary Contribution System and the Unitary Budget. The United States fully supports the prior decisions regarding the Unitary Contribution System and the Unitary Budget. We have carefully considered the concerns raised, and this information document is intended to address those concerns.

Unitary Contribution System

The Unitary Contribution System was adopted in 1993 by the WIPO Conference and the Assemblies of the Paris and Berne Unions to support the general expenses of WIPO and the six Contribution-financed Unions (that is, the Paris, Berne, IPC, Nice, Locarno and Vienna Unions).¹ The Unitary Contribution System was intended to encourage wider membership in the WIPO Convention and WIPO treaties, and allow a member's contribution to remain the same, regardless of how many treaties that it joins. The Hague, Lisbon, Madrid and PCT Unions were not included in the Unitary Contribution System because these systems were intended to be fee-funded. In 2003, the WIPO Assemblies adopted amendments--which have not yet entered into force--to various treaties to implement the Unitary Contribution System. The Lisbon Agreement was not considered to be a contribution-financed union when the Unitary Contribution System was created; it was understood to be a fee-funded union.² Furthermore, in 2003 when other amendments were proposed to implement the Unitary Contribution System, the Lisbon Assembly adopted amendments regarding the Unitary Budget (see below), but did not adopt amendments to make the Lisbon Union a contribution-financed union.

Unitary Budget

The Unitary Budget³ refers to a unitary accounting ledger of income and expenses that is prepared by the International Bureau reflecting the budgets of all of the unions, both Contribution-Funded and fee

¹ See "Unitary Contribution System for the Six Contribution-Financed Unions and Alignment of the Contributions of Non-Union States," AB/XXIV/5 (May 31, 1993), available at:

http://www.wipo.int/mdocsarchives/AB_XXIV_1993/AB_XXIV_5_E.pdf, and A/34/9 at paragraph 19, for example.

² See, for example, "Final Texts of Proposed Amendments to the Paris Convention and "As the Lisbon Union is not a contribution-financed Union, no changes are required in respect of the unitary contribution system."

³ In 2003, when the practice of a Unitary Contribution System was adopted, the Secretariat explained "Article 11(1) proposes a new enabling provision for the budget consequent upon the adoption of the unitary contribution system. The proposed provision seeks to implement the desire expressed by many delegations in the Working Group on Constitutional Reform that, while the Organization has a unitary contribution system, it should not have a unitary budget in the sense that all income and expenses, regardless of their source or purpose, are mixed without identification. Accordingly, Article 11(1) would require that the budget of the Organization be presented so that the income and expenses of the Organization and of the various Unions be indicated 'in a fair and transparent manner.'" See A/39/2, page 24.

funded, as well as the Organization as a whole. There remain separate budgets for the fee-funded unions (Hague, Lisbon, Madrid, and PCT)⁴ as required by those respective treaties.

In 2003, the WIPO Assemblies agreed to amend⁵ the WIPO Convention and all WIPO treaties to delete a provision referring to a “separate budget” for “the expenses common to the Unions, and the budget of the Conference,” replacing it with the text “the income and expenses of the Union[s] shall be reflected in the budget of the Organization in a fair and transparent manner.” This was intended to implement the Unitary Contribution System for the Contribution-financed unions and consequently, has the practical effect of creating a Unitary Budget for the contribution-financed unions.⁶ However, these amendments did not create a Unitary Budget concept for all unions and agreements; it merely created a single budget document for all of the unions, with the non-Contribution financed Unions and the Contribution-financed Unions budgets included within the document.⁷

The Lisbon Union finances are governed by the agreement itself. Article 11 requires fees and if necessary, Lisbon member contributions, to fund its operations. The PCT, Madrid and Hague Unions have similar provisions regarding funding.

[End of Annex and of document]

⁴ See “Constitutional Reform,” A/34/9 (May 28, 1999), paragraph 58(iii) which states: “while a unitary contribution system, and in consequence, a unitary budget has been introduced in practice for the contribution-financed Unions, separate budgets are still maintained for the PCT Union, the Madrid Union and the Hague Union.”

⁵ This amendment is not yet in force. According to the IB, the Unitary Contribution System is a member state decision, not a treaty requirement, as it is not yet in force: “15 WIPO member states have formally accepted the proposed amendments, which will enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the Member States of WIPO.” Program and Budget Committee, Twenty-Fourth Session, Geneva, September 14 to 18, 2015, “*Options for the Financial Sustainability of the Lisbon Union*,” WO/PBC/24/16, (Aug. 7, 2015), Document prepared by the Secretariat, paragraph 14.

⁶ See A/39/3, page 8, Note 16.03 on Article 16 of the Paris Convention to implement the 2003 amendments: “Since the introduction of the unitary contribution system, the budget of the Paris Union is part of the budget of the contribution-financed Unions in the Program and Budget of the Organization and the Unions administered by WIPO.”

⁷ See A/39/3, page 10, Note 16.07: “Thus, ‘budget of the Union’ is replaced by ‘income of the Union’ to reflect the fact that the budgets of the various Unions administered by WIPO and of the Organization are presented in a single document of an inter-connected nature.”