

WIPO Coordination Committee

Seventy-Third (47th Ordinary) Session
Geneva, October 3 to 11, 2016

REPORT ON GEOGRAPHICAL DISTRIBUTION

prepared by the Chair of the WIPO Coordination Committee

1. At its annual session on October 12, 2015, the WIPO Coordination Committee “noted that consultations shall take place under the guidance of the Chair of the WIPO Coordination Committee, to review the 1975 Principles of Geographical Representation, with a view of presenting a proposal to the Coordination Committee during the 2016 Assemblies of Member States.”
2. Accordingly, Ambassador François Xavier Ngarambé, Chair of the WIPO Coordination Committee (Rwanda), held consultation meetings with the Regional Coordinators and other members of WIPO’s regional groups, on January 28, 2016, March 4, 2016 and June 22, 2016. This is the report by the Chair concerning those consultation meetings. It includes preliminary recommendations from the Chair for consideration by the WIPO Coordination Committee, pending further consultation meetings on the matter of geographical distribution.
3. At the outset, the Chair wishes to note that data on geographical distribution, which were produced by the Secretariat as at June 2016, on the basis of the 1975 Principles, show that, of the seven geographical regions identified under the 1975 Principles, there are two regions (Eastern Europe and Central Asia and the Middle East) which fall below their respective desirable range of number of posts and are therefore underrepresented. One region (North America) is slightly below its desirable range of number of posts, falling short by one post. Two regions are within their respective desirable range of number of posts (Asia and the Pacific, and Western Europe) while two are above their respective desirable range of number of posts and are therefore overrepresented (Africa, and Latin America and the Caribbean). This has been the same configuration, at least since the past two years, as shown by earlier data produced as

at June 2014 and June 2015¹. Objectively speaking, under the 1975 Principles, the issue of geographical distribution (and more particularly, underrepresentation) is confined to two regional groups out of seven.

Background information for the consultation meetings

4. Information on the topic of geographical distribution was provided by the Secretariat, including studies undertaken by the Joint Inspection Unit (JIU) and the methodologies and practices applied by some organizations of the United Nations (UN) common system in determining the appropriate geographical distribution in staffing. The Secretariat also explained the steps in the recruitment process and its various outreach initiatives to promote and enhance geographical distribution in WIPO's recruitment of staff.

5. Research by the Secretariat shows:

(a) Article 9(7) of the WIPO Convention dealing with geographical distribution is a verbatim copy of Article 101, paragraph 3 of the UN Charter. Similar provisions are also found in the constitutive instruments or staff regulations and rules of other UN system organizations. Article 9(7) provides: "The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible."

(b) Based on the JIU studies, there appears to be two approaches through which organizations of the UN common system tackle geographical distribution in their staffing:

- One is through the application of a methodology for calculating equitable geographical distribution which results in a desirable range of number of posts (or a quota) for each Member State. This is the approach taken by the UN Secretariat, International Labour Organization (ILO), Food and Agriculture Organization (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), International Civil Aviation Organization (ICAO), World Health Organization (WHO) and United Nations Industrial Development Organization (UNIDO). The elements used in formulating these methodologies are some or all of the following: membership, contributions, population and post-weighting (i.e., the higher the level of the post the more points assigned to it).
- The other approach is where there is no formal system or set quota that is followed in determining geographical representation of Member States (e.g., Universal Postal Union (UPU), the International Telecommunication Union (ITU), World Meteorological Organization (WMO), International Maritime Organization (IMO), International Atomic Energy Agency (IAEA), World Food Programme (WFP), United Nations Development Programme (UNDP), United Nations International Children's Emergency Fund (UNICEF), United Nations High Commissioner for Refugees (UNHCR), Joint United Nations Programme on HIV/AIDS (UNAIDS), United Nations Population Fund (UNFPA) and United Nations World Tourism Organization (UNWTO)). Some of these organizations (UNDP, UNICEF and WFP) see equitable geographical distribution in terms of a balance between donor/industrialized countries and

¹ Data on geographical distribution of posts as at June 2014, June 2015 and June 2016 appear in Annex II of the Annual Report on Human Resources for these relevant periods. The Reports are available on the WIPO website as documents of the annual session of the WIPO Coordination Committee at: http://www.wipo.int/meetings/en/topic.jsp?group_id=104.

programme/developing countries, or between North and South (UNHCR and United Nations Relief and Works Agency (UNRWA)). All of these organizations take geographical balance into account but do not apply a quota system.

- (c) The JIU recognized that in small organizations where there is a limited number of posts, there might be difficulty in introducing quotas.
- (d) The posts covered under geographical distribution (whether through a formal system or not) are those in the Professional and higher categories, generally excluding language positions and those which are funded outside the regular budget. WIPO follows this distinction.
- (e) In WIPO, there are also other types of posts in operational/processing areas such as the PCT, Madrid and Hague, which require competencies that are specifically and principally user-driven. Because of the service-orientation of these posts specifically directed towards users of WIPO's IP registration services and because there are more users in certain countries than others, it is inherently difficult to apply the principle of geographical distribution to these posts. Examples of such posts are Examiners² and certain legal posts.
- (f) Altogether, excluding the posts identified in the preceding paragraphs 5(d) and 5(e) above, there are approximately 400 posts at WIPO which are subject to geographical distribution. Opportunities for vacancies of posts are limited. Under the current age limit for retirement, some 88 new vacancies in the Professional and Director categories are projected in the next five years. At the current count, the projected vacancies account for around 17 per cent of the total number of posts in these categories.
- (g) WIPO employs a two-pronged strategy for improving geographical distribution. First is the enhancement of internal measures relating to the recruitment process and second, focused outreach activities in partnership with interested Member States.
- Internally, the Secretariat has multiplied its job-announcement platforms for wider dissemination. It uses traditional publication methods (print, the WIPO website and circulation of information to Member States through their missions in Geneva) and social media (LinkedIn, Twitter, Monster.com). Among managers, appointment boards and staff in general, sensitization measures such as training are on-going to increase awareness of the value and benefits of geographical and gender diversity. Appointment boards receive updated information of unrepresented Member States in WIPO staffing and include in their report to the Director General their specific consideration of the principles of geographical distribution and gender balance in the screening of candidates.
 - Outreach activities, with the aim of increasing the diverse pool of suitable candidates, take the form of campaigns targeting underrepresented regions, missions to unrepresented Member States with visits to universities, information events and establishing of partnerships with focal persons (e.g., in career offices of universities and other organizations, national IP offices). Information on vacancies was also disseminated through mailing lists, particularly to potential candidates from unrepresented Member States who have interesting profiles but did not succeed in their prior applications.

² While most Examiner posts belong to the General Service category (and are therefore excluded from geographical distribution), some senior Examiner posts belong to the Professional category.

Discussions and proposals

6. The foregoing package of information served as the springboard for open and inclusive discussion during the consultation meetings.

General consensus

7. The regional groups were unanimous in upholding merit as the primary benchmark for recruitment. They were also of the view that user-driven posts (explained in paragraph 5(e) above) should be excluded from the coverage of geographical distribution. All groups expressed their strong support for the current initiatives of the Secretariat. There was the recognition that to seek representation of each and every Member State of WIPO, as a benchmark of geographical distribution, is not feasible in view of the small number of posts subject to geographical distribution.

Specific submissions

8. In the course of the meetings and upon the request of the Chair, submissions, containing observations and proposals on the way forward, were made by some of the regional groups. Submissions came from the African Group, Group B, Group of States of Latin America and the Caribbean (GRULAC), the Central European and Baltic States (CEBS), and the Central Asian, Caucasus and Eastern European Countries (CACEEC). Since then and upon the request of the Chair, the Secretariat has conducted research on some of the points raised in the various submissions. Information obtained from this research is presently included in this report, directly after a summary of each submission.

9. One group considered it necessary that the outcome of the current review process of WIPO's system of geographical distribution enshrine the principles of fairness, equity, transparency, accountability and merit in the selection and recruitment processes at WIPO. This group proposed direct selection by the Director General (citing the ILO) for senior-level posts from P5, including project-based posts, to institute an easily identifiable accountability where there is underrepresentation or geographical imbalance.

(a) There was consensus that the principles enunciated by this group should underpin recruitment in WIPO.

(b) As regards the proposal on direct selection by the Director General, the Secretariat informs that the practice was abandoned by Member States in 2006. The following excerpt from a report of the JIU issued in 2005³ is relevant.

³ "Review of Management and Administration in WIPO: Budget, Oversight and Related Issues", JIU/REP/2005/1.

Direct Recruitment

18. The practice of direct recruitment at WIPO began in 1976. Staff Regulation 4.8 (b) provides, inter alia, "...when certain services in the Professional category are urgently required for a limited period – particularly for current projects – the Director General may proceed by direct recruitment, without having recourse to a competition. Staff members recruited according to the latter procedure shall be granted fixed-term appointments not exceeding three years, which shall not be extended or converted to a permanent appointment." The Inspectors were informed that WIPO's interpretation of the rule is that individuals hired via direct recruitment may compete for vacancies in WIPO and that over the last three years, 99 per cent of direct hires were confirmed into regular posts. During the biennium 2002-2003, 43 per cent (38 out of a total of 88) of the Professional staff recruited were direct hires. This two-step process circumvents competition and equitable geographical representation and should be discontinued. While recognizing that in exceptional cases there may be a need to hire someone expeditiously, the Inspectors believe that other existing contractual modalities can be used to address these needs.

- (c) In line with the recommendation of the JIU, the relevant provision in the WIPO Staff Regulations and Rules was specifically amended in 2006, as approved by the WIPO Coordination Committee at that time, deleting the reference to direct recruitment procedures.
- (d) Should Member States wish to reinstate this practice to cover senior level and project-based posts, further study is needed from the Secretariat in respect of establishing the necessary statutory basis and implementing mechanism, and the implications, if any, for reverting to such practice.
10. Another group highlighted the fact that in small organizations, a quota system is not feasible due to the limited number of posts, in which case a system of geographical distribution may be one that takes into account geographical balance. It encouraged expansion of the Secretariat's recruitment outreach and the strengthening of standards for selection based on merit and competence. It supported focused and continuous outreach to unrepresented Member States as the only way to achieving better geographical balance.
- (a) The proposal to expand the Secretariat's outreach activities on recruitment, especially to unrepresented Member States, and to strengthen the standards of recruitment based on merit, found consensus among all groups.

11. Still another group considered the necessity of updating the 1975 Principles with a system that reflects the diversity of the Organization and the principle of universality enshrined in the UN and in the WIPO Convention. It proposed the establishment by the Secretariat of indicators and targets in the Program Performance Report (PPR) to improve the proportion of staff from unrepresented Member States and underrepresented regions. It also proposed that hiring managers be held accountable for results, including as part of their annual performance appraisal, and issue an "exception report" when hiring nationals from overrepresented regions. Another proposal is that geographical distribution be considered in the use of non-staff resources (giving FAO as an example). Further, it proposed a Young Professionals Programme (YPP) to target unrepresented Member States and underrepresented regions and sought that specific hiring of the donor's nationals be dissociated from voluntary contributions and that acceptance of free services from any nationality, as a prelude to recruitment, be avoided. Two groups proposed the adoption of a post-weighting system, one group citing FAO as an example.

- (a) The question of whether or not the 1975 Principles should be updated, modified in part or replaced altogether will form part of the eventual decision by Member States.
- (b) As regards the proposal for a post-weighing system at WIPO, further study and information are needed from the Secretariat concerning such a mechanism so that meaningful discussions could take place in subsequent consultation meetings.
- (c) In respect of the principle of accountability for recruitment, the Secretariat clarifies that the hiring manager is a member of the appointment board which conducts the screening of applicants for an advertised position. The appointment board makes its recommendations to the Director General who has the sole authority to appoint staff members in WIPO. The Secretariat informs that there are two schools of thought concerning participation by hiring managers in the selection process. One school of thought subscribes to the distancing of hiring manager from the process for reasons of conflict of interest. This may occur in instances where an incumbent (for example, on a temporary appointment) competes for a fixed-term post. In such a situation, the hiring manager may be viewed as non-neutral and partial on account of the prior working experience with one of the candidates. In the past and consistent with such an approach, hiring managers in WIPO only occupied observer status in appointment boards to provide information concerning the requirements of the position, if so requested by members of the board, and exercising no voting rights whatsoever. Another school of thought proceeds from the (reasonable) assumption that the hiring manager is best placed to know the specific needs and requirements of the advertised position and should therefore directly participate in the evaluation of applicants and in making recommendations to the Director General. This is the current procedure in WIPO where the hiring manager is one of four members of an appointment board. The three others are the staff representative, representative from HRMD, and the Chair; collectively they are accountable for recommendations made to the Director General. To shift accountability to the hiring manager, including as part of his/her performance evaluation, will mean an overhaul of current procedures.
- (d) Further to the preceding proposal, the Secretariat informs that the appointment boards are provided updated information on the list of unrepresented Member States at the time of the selection process. The boards specifically include in their reports the results of their consideration of geographical distribution and gender balance in the screening and selection of candidates.
- (e) The motivation behind the proposal to establish a YPP could be very well integrated into the existing Junior Professional Officer (JPO) program managed by UNDP and under which WIPO is a participating organization. Any WIPO Member State could agree to fund a JPO in WIPO who is a national of an unrepresented Member State or who come from an underrepresented region, for a determined period of time. Such arrangement has taken place in other organizations for the purpose of capacity-building. The JPO role will allow nationals from targeted Member States to acquire hands-on exposure, learn WIPO's mandate and its programs and activities, thereby helping JPOs acquire a deeper understanding of the Organization and to develop (or further develop) the competencies required for eventual vacancies in fixed-term positions.
- (f) As regards the proposal to consider geographical distribution in the hiring of non-staff resources, the Secretariat informs that data on nationality and gender of non-staff hired under an individual contractual services contract are available, as of January 1, 2015. To be able to consider further this proposal, a study is needed from the Secretariat concerning the necessary statutory basis and implementing mechanism, and the implications for expanding the scope of coverage in the reckoning of geographical distribution to include non-staff.

(g) The proposal to dissociate donations and the hiring of nationals from donor countries using such donated funds is one for further consideration by Member States, especially donor Member States. The Secretariat also emphasizes that any arrangement for the acceptance of free services of a national of a donor Member State is never a step in WIPO's recruitment process. The selection procedures for any staff position, be it fixed-term or temporary, are established under WIPO's Staff Regulations and Rules and are strictly observed by the Secretariat. A competitive process which provides for a rigorous screening of candidates is a key feature of these selection procedures.

(h) Finally, the establishment of targets and indicators in the PPR will be dependent on agreement by Member States on the way forward on the issue of geographical distribution.

12. One other group noted the limited opportunities for vacancies in posts subject to geographical distribution. It urged focus on the implementation of the existing policy rather than the development of a new one with a likely limited impact on desired results, and stressed the importance of applying the principle of equitable geographical representation during recruitment. It proposed geographical balance in top management positions and cited JIU guidance on how to embed the principle of equitable geographical distribution in the organizational culture, regulatory and policy framework, activities, programs, monitoring and reporting.

(a) Pending any decision by Member States to abandon the 1975 Principles, the initiatives and activities of the Secretariat to improve geographical distribution, within the framework of the 1975 Principles, will remain the focus of continuing implementation.

(b) The Secretariat informs that training programs and workshops have been conducted and continue to be carried out to raise awareness among appointment board members, managers and the staff-at-large on the business case for organizational diversity, in particular on geographical diversity and gender balance. Further, the principles of geographical distribution and gender balance find explicit affirmation in Staff Regulation 4.2. The impact of outreach missions, sensitization measures, broader information-dissemination and publicity campaigns to promote jobs in WIPO globally, especially to unrepresented Member States, is continuously analyzed and data concerning geographical representation in WIPO staffing is being monitored and reported on a regular basis. These are some of the ways in which diversity, specifically, geographical and gender diversity, is being integrated into the organizational culture, the regulatory and policy framework, and the programs and activities, of WIPO. Steady improvement is being achieved in the geographical distribution of middle to senior management positions.

13. Finally, another group expressed support for on-line publication of more data on geographical distribution and their dynamics for increased transparency. It proposed that recruitment be carried out in two stages: first, a competition for a vacancy limited only to underrepresented regions, with the competition to be opened up to the general public only where there are no suitable candidates from the targeted regions. It also proposed individualized feedback to unsuccessful candidates from these regions and emphasized geographical balance not only among regions but also among countries within a given region.

(a) The Secretariat informs that data concerning geographical distribution is provided to Member States twice a year in addition to the documents published during the annual sessions of the Assemblies. Data and related information are also made available to any Member State upon request from the Secretariat.

(b) The Secretariat also informs that, on average, there are over 100 applications for each vacancy announcement. The chart directly below shows the average number of applications for vacant positions in the Professional and Director categories in 2014 and 2015 and the total number of vacancy announcements published for that period.

	2014	2015
Average number of applications – Director and higher category	85	85
Average number of applications – Professional category	152	152
Total number of vacancy announcements	89	89

(c) The above data indicate the high volume of applications received throughout the year, which exceeds 10,000. In view of the numbers involved, feedback is provided only to applicants who are short-listed in a given competition, but not selected. Regrettably, there is no capacity to provide individualized feedback to all unsuccessful applicants. Further, to single out unsuccessful applicants from unrepresented Member States or those from underrepresented regions for individualized feedback could be adversely perceived as a differentiation in treatment (or worse, discriminatory treatment) of unsuccessful applicants and would pose a reputational risk to the Organization.

(d) The Secretariat further informs that any selection process which would follow the “two-stage screening process” described in paragraph 13 above would be unlawful. It would be discriminatory and inconsistent with the UN Charter, the WIPO Convention and the WIPO Staff Regulations and Rules, which all provide (with minor variation in phraseology) that: “The paramount consideration in the employment of the staff shall be the need to secure the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.” WIPO Staff Regulation 4.1 adds: “[...] Recruitment and appointment of staff members shall be made without distinction as to race, ethnicity, gender [...]” (underscoring supplied). In this regard, the following judgments from the International Labour Organization Administrative Tribunal are relevant (all underscoring and emphasis supplied):

- Judgment No. 3652 (2016) at consideration 25:
“The stated principle is that the nationality of a country that was non-represented or under-represented in the geographic distribution of staff members is only to be taken into account when candidates are equally well qualified. It was in error that qualifications, nationality and geographic distribution were accorded equal weight at that early stage of the process [...].”
- Judgment 3103 (2012) at consideration 10:
“The Organization must follow its own rules for fair competition, and to show favouritism to her due to her expiring contract, gender or nationality, would be unfair to all other applicants. In her submissions the complainant repeatedly mentions her gender and nationality as special considerations for the priority treatment that she expected from the Organization. She seems to have misunderstood the idea behind the quota system. While it is true that the Organization makes special efforts to attract women and employees from non- and under-represented countries in order to recruit and maintain "a staff selected on a wide geographical basis, recognizing also the need to take into account considerations of gender and age", it shall take

into consideration factors such as age, gender and nationality **only when deciding among equally qualified candidates.**

- Judgment No. 1871 (1999) at considerations 9-10:
“9. The Tribunal observes that the Director-General gave paramount importance to the principle of geographic distribution, which resulted in him selecting the applicant who was second in the list recommended by the Selection Committee because that applicant was a national of an "under-represented" country, while the complainant, who was in first place, was a national of an "equitably represented" country.
“10. Analysis of the above provisions and the facts of the case show that the Director-General was mistaken in his interpretation of these provisions. The Constitution of the FAO clearly states that "the highest standards of efficiency and of technical competence" are of paramount importance in appointing staff. The Selection Committee is under the obligation to recommend for selection the candidate whose qualifications most closely meet the requirements of the post. Therefore the essential qualifications required are the priority criterion. Consideration of other criteria, including seniority of service and geographic distribution, which appear to be of a subsidiary nature, is only envisaged where several candidates are equally well qualified.” [The Complainant in this case was awarded USD100,000 in compensation for the injury suffered.]

Work ahead

14. Further discussions and consultation meetings with regional groups will be scheduled in 2016 through 2017 to determine whether or not to recommend a departure from the 1975 Principles on Geographical Distribution and consequently, propose the formulation of a formal policy or a new system on equitable geographical distribution in WIPO staffing.

Studies to be conducted

15. The following studies may be conducted by the Secretariat if the related principles are adopted:

- A study on the practice of direct selection to cover senior level and project-based posts as described in paragraph 9(d);
- A study on post weighing system at WIPO as described in paragraph 11(b); and
- A study on non-staff hired under an individual contractual services contract as described in paragraph 11(f).

Preliminary recommendations

16. At this juncture of the consultations, a clear consensus among the regional groups has emerged in supporting the Secretariat's continuation of current efforts and initiatives to improve geographical distribution.

17. In addition, certain practical steps as outlined below, which are taken from or inspired by the proposals put forward by the various political regional groups, are consistent with this expressed support, and are therefore proposed for endorsement by the WIPO Coordination Committee subject to their implementation being budget-neutral. One of the recommendations (paragraph 17(a) below) entails committed engagement by the Member States concerned, without which progress will be difficult to achieve.

(a) Outreach activities of the Secretariat may be expanded to eventually cover, as a priority, unrepresented Member States. The Secretariat will work with the Member State/s which provide/s all the necessary input and which will engage. For this purpose, the Member State should identify a focal person (who is at a sufficiently senior level to engage and commit) to partner closely with the Secretariat, for example, (i) in identifying appropriate national publicity platforms for WIPO jobs, (ii) arrange, organize or host fora for WIPO job information campaigns (e.g., with universities, professional groups, etc.), and (iii) establish a support program for potential suitable candidates (in the form of guidance on WIPO's recruitment process, coaching on application-writing, interviewing). Other similar and innovative outreach efforts, as may be identified by the Secretariat and Member State concerned, are encouraged.

(b) In Vacancy Notices for positions subject of geographical distribution (and it is urged, for all other positions in WIPO), the Secretariat should systematically include a section on "Diversity" under which the Organization's aims of gender balance and equitable geographical distribution are articulated. Currently, the only reference to diversity on WIPO vacancy notices is the sentence: "Applications from qualified women candidates are encouraged." It is high-time that the key benchmarks of organizational diversity, i.e., gender and nationality, form an integral part of information conveyed to prospective applicants. The proposed section on Diversity could include the following sentence: "*Applications from qualified women as well as from qualified nationals of unrepresented Member States of WIPO and underrepresented geographical regions are encouraged. For a list of these unrepresented Member States and underrepresented regions, please [click here](#).*" [There should be a link to the page on the WIPO website where these lists should be provided and regularly updated by the Secretariat.]

18. It is proposed by the Chair that the other observations and proposals articulated by regional groups in their submissions be further discussed and considered in subsequent meetings, subject to the agreement of the WIPO Coordination Committee to continue further consultation meetings, with a view to formulating a new policy or establishing a new system of geographical distribution should there be agreement to depart from the 1975 Principles.

19. *The WIPO Coordination Committee is invited to:*

- (i) take note of the "Report on Geographical Distribution" (document WO/CC/73/5); and*
- (ii) endorse the preliminary recommendations described under paragraphs 17 and 18 of the same document.*

[End of document]