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

### **Assembly**

**Fifty-Third (23<sup>rd</sup> Ordinary) Session  
Geneva, September 30 to October 9, 2019**

**PROPOSAL FOR DISTRIBUTION OF THE MADRID UNION SURPLUS FOR THE  
2020/21 BIENNIUM**

*Proposal submitted by the Delegation of the United States of America*

In a communication to the Secretariat received on September 18, 2019, the Delegation of the United States of America submitted the enclosed proposal in the framework of the Agenda Item "Madrid System".

[Annex follows]



PROPOSAL FOR DISTRIBUTION OF THE MADRID UNION SURPLUS FOR THE  
2020/21 BIENNIUM

*Submitted by the Delegation of the United States of America*

1. As indicated in the Proposed Program and Budget (document A/56/8), a surplus of income over expenditure for the Madrid Union of 8.105 million Swiss francs is projected for the biennium.
2. Article 8(4) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks provides that “[t]he annual product of the various receipts from international registration, with the exception of the receipts derived from the fees mentioned in paragraph (2)(ii) and (iii), shall be divided equally among the Contracting Parties by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of this Protocol.” Regulation 4.7 of the Financial Regulations and Rules of the World Intellectual Property Organization provides “[i]f, after the closure of the financial period, any Union shows a surplus of income, such surplus shall be accounted for under the reserve funds, unless otherwise decided by the General Assembly or the Assembly of the Union concerned.”
3. Article 12 of the Madrid Protocol directs that “[t]he annual returns from the various receipts from international registration...shall be divided equally among the countries party to this Act by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of the said Act.”
4. In 2007 (MM/A/38/4), the WIPO Secretariat explained the criteria for the allocation or distribution of a surplus of the Madrid Union, and the recent history of these distributions, as follows:
  4. Article 8(4) of the Agreement and Article 8(4) of the Protocol prescribe that the annual produce of the various receipts derived from international registration, with the exception of the receipts derived from supplementary and complementary fees, shall be divided equally among the Contracting Parties by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of the Agreement and the Protocol.
  5. Whenever any such surplus has occurred, the distribution or allocation thereof to specific purposes has been the subject of a decision by the Madrid Union Assembly. Different distribution criteria have been applied over the past 35 years.
  6. From 1972 to 1983, only ten per cent of any such surplus was distributed among the Contracting Parties of the Madrid Union. The remaining 90 per cent was allocated to the Madrid Union Reserve Fund. Between 1984 and 1989, these percentages were 20 and 80 per cent, respectively, and, as from 1990, 40 and 60 per cent. Payments into the Reserve Fund of the Union were partly justified by requirements for investment in the development of the Madrid computerization system (see documents MM/A/XXI/1 and 3). As from 1990, those payments were made into the Special Reserve Fund for Additional Premises and Computerization.
  7. The distribution criteria approved in 1989 were only operational in practice for the years 1990 to 1995, as no surplus was generated thereafter.

8. In 2000, the Assembly of the Madrid Union approved that 100 per cent of any surplus accumulated during the biennium 2000-2001 was to be distributed to Member States under Articles 8(4) of the Madrid Agreement and Protocol. However, no funds were distributed, since the Madrid Union budget showed a deficit rather than a surplus at the end of that biennium. The Madrid Union budget also did not generate a surplus in the 2002/2003 or the 2004/2005 biennium.

5. Given that a surplus is again anticipated, and in accordance with the Madrid Protocol and WIPO Financial Regulation 4.7, the Madrid Union Assembly may decide to direct that the annual returns in excess of expenses be divided equally among the members of the Madrid Union.

6. There are currently 105 members of the Madrid Union, therefore it is foreseen that should the projected surplus be accurate, each member should be entitled to nearly 77,000 CHF, which could be applied to the Member's contribution to the year or other needs.

7. A projected distribution would be as follows:

<b>Madrid Union Members</b>	<b>Projected surplus (Swiss francs)</b>
Afghanistan	77,190
African Intellectual Property Organization (OAPI)	77,190
Albania	77,190
Algeria	77,190
Antigua and Barbuda	77,190
Armenia	77,190
Australia	77,190
Austria	77,190
Azerbaijan	77,190
Bahrain	77,190
Belarus	77,190
Belgium	77,190
Bhutan	77,190
Bosnia and Herzegovina	77,190
Botswana	77,190
Brunei Darussalam	77,190
Bulgaria	77,190
Cambodia	77,190
Canada	77,190

China	<b>77,190</b>
Colombia	<b>77,190</b>
Croatia	<b>77,190</b>
Cuba	<b>77,190</b>
Cyprus	<b>77,190</b>
Czech Republic	<b>77,190</b>
Democratic People's Republic of Korea	<b>77,190</b>
Denmark	<b>77,190</b>
Egypt	<b>77,190</b>
Estonia	<b>77,190</b>
Eswatini	<b>77,190</b>
European Union (EU)	<b>77,190</b>
Finland	<b>77,190</b>
France	<b>77,190</b>
Gambia	<b>77,190</b>
Georgia	<b>77,190</b>
Germany	<b>77,190</b>
Ghana	<b>77,190</b>
Greece	<b>77,190</b>
Hungary	<b>77,190</b>
Iceland	<b>77,190</b>
India	<b>77,190</b>
Indonesia	<b>77,190</b>
Iran (Islamic Republic of)	<b>77,190</b>
Ireland	<b>77,190</b>
Israel	<b>77,190</b>
Italy	<b>77,190</b>
Japan	<b>77,190</b>
Kazakhstan	<b>77,190</b>
Kenya	<b>77,190</b>
Kyrgyzstan	<b>77,190</b>
Lao People's Democratic Republic	<b>77,190</b>
Latvia	<b>77,190</b>

Lesotho	<b>77,190</b>
Liberia	<b>77,190</b>
Liechtenstein	<b>77,190</b>
Lithuania	<b>77,190</b>
Luxembourg	<b>77,190</b>
Madagascar	<b>77,190</b>
Malawi	<b>77,190</b>
Mexico	<b>77,190</b>
Monaco	<b>77,190</b>
Mongolia	<b>77,190</b>
Montenegro	<b>77,190</b>
Morocco	<b>77,190</b>
Mozambique	<b>77,190</b>
Namibia	<b>77,190</b>
Netherlands	<b>77,190</b>
New Zealand	<b>77,190</b>
North Macedonia	<b>77,190</b>
Norway	<b>77,190</b>
Oman	<b>77,190</b>
Philippines	<b>77,190</b>
Poland	<b>77,190</b>
Portugal	<b>77,190</b>
Republic of Korea	<b>77,190</b>
Republic of Moldova	<b>77,190</b>
Romania	<b>77,190</b>
Russian Federation	<b>77,190</b>
Rwanda	<b>77,190</b>
Samoa	<b>77,190</b>
San Marino	<b>77,190</b>
Sao Tome and Principe	<b>77,190</b>
Serbia	<b>77,190</b>
Sierra Leone	<b>77,190</b>
Singapore	<b>77,190</b>
Slovakia	<b>77,190</b>
Slovenia	<b>77,190</b>
Spain	<b>77,190</b>

Sudan	<b>77,190</b>
Sweden	<b>77,190</b>
Switzerland	<b>77,190</b>
Syrian Arab Republic	<b>77,190</b>
Tajikistan	<b>77,190</b>
Thailand	<b>77,190</b>
Tunisia	<b>77,190</b>
Turkey	<b>77,190</b>
Turkmenistan	<b>77,190</b>
Ukraine	<b>77,190</b>
United Kingdom	<b>77,190</b>
United States of America	<b>77,190</b>
Uzbekistan	<b>77,190</b>
Viet Nam	<b>77,190</b>
Zambia	<b>77,190</b>
Zimbabwe	<b>77,190</b>

8. *The Madrid Union Assembly is invited to decide to divide the annual returns among the countries of the Union equally, as provided in the Madrid Protocol.*

[End of Annex and of document]