

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WIPO GENERAL ASSEMBLY

Twenty-Third (10th Extraordinary) Session Geneva, September 7 to 15, 1998

REPORT

adopted by the Assembly

1. The General Assembly was concerned with the following items of the Consolidated Agenda (document A/33/1 Prov.2): 1, 2, 4, 5, 7, the second part of item 8, 9, 10, 12, 13, 14, 20 and 21.
2. The report on the said items, with the exception of items 1, 2, 4, 7, 9, 14, 20 and 21, is contained in the General Report (document A/33/8).
3. The report on items 5 (which includes the report on item 6 as decided by the General Assembly), the second part of item 8, 10, 12 and 13 is contained in the present document.
4. Ms. Sheila Batchelor, Chair of the General Assembly, presided over the meeting of the General Assembly.

ITEMS 5 AND 6 OF THE CONSOLIDATED AGENDA:

POLICY ON BUDGET SURPLUS
AND
POLICY ON RESERVE FUNDS

5. Discussions were based on documents WO/GA/23/2 and WO/GA/23/3.

6. The Chair invited the WIPO General Assembly to consider agenda items 5 and 6 together, as agreed among the Group coordinators, recalling that, when the Director General presented his draft program and budget in the informal consultations leading up to the Assemblies in March, he forecast an excess of revenue over expenditure. Facing such a situation, many Delegations had, in March 1998, urged the Director General to use some of the projected surplus for activities designed to supplement those being approved in the regular program and budget. Other Delegations had indicated a need for a strategic policy on the surplus and reserves. The Director General was requested to report on these issues at the present session of the WIPO General Assembly and he had done so with documents and decision paragraphs presented under agenda items 5 and 6.

7. The Chair also recalled that, on these items, Groups' positions at current session of the Assembly were diverging, ranging from the full approval of the decision paragraphs to a referral of the agenda items to the regular meeting of the Budget Committee, in March 1999. In order to move forward, meetings were held with the Group coordinators to try to delineate a common ground on these agenda items and to find a compromise solution that would be in the best interest of all.

8. In this respect, a compromise solution was reached on the following text:

“The WIPO General Assembly,

(i) notes with approval the activities proposed in document WO/GA/23/2 and emphasizes the importance of each of those activities;

(ii) notes the Director General's assurance that, in the exceptional circumstances of a new, transitional program and budget, the above-mentioned activities can be financed out of the resources in the program and budget for 1998-99;

(iii) decides that the said activities shall be financed and implemented in the current 1998-99 biennium;

(iv) notes the need of the Director General for flexibility in the allocation of resources in the present program and budget in order to ensure that the said activities are implemented without affecting the full implementation of the activities and programs already approved in the present program and budget;

(v) notes that this decision does not constitute a precedent for the manner in which new requirements arising in the course of a biennium should be financed;

(vi) recommends to the Assembly of the PCT Union that that Assembly give positive consideration to the proposals for fee reductions contained in documents WO/GA/23/2 and PCT/A/26/1;

(vii) decides that the Program and Budget Committee should, at its next ordinary session, discuss a policy on a long-term strategy on budget surpluses;

(viii) refers the issues dealt with in document WO/GA/23/3 (“Policy on Reserve Funds”) to the Program and Budget Committee, at its next ordinary session, for its consideration.”

9. The Chair stated that it was her understanding that the above text represented a consensus among members of the Assembly as to the decisions on agenda items 5 and 6.

10. The Director General expressed his satisfaction with the contents of this proposed decision to be adopted insofar as it represented a consensus of the Assembly, as well as his confidence on the implementation of this decision to the full satisfaction of all member States. The Director General highlighted two critical and important aspects of this decision: first, that the proposed activities contained in document WO/GA/23/2 were approved by the Assembly and, second, that the new set of activities would be carried out without affecting the full implementation of the activities and programs already approved in the program and budget for the current biennium.

11. The head of the Delegation of Bangladesh expressed profound thanks to the Director General, Dr. Kamil Idris and his colleagues for the excellent documentation. He also stated that as Ambassador of Bangladesh, he coordinated the activities of the LDCs in Geneva. For the purpose of the record, and on their behalf, he said that the LDCs are deeply appreciative of the decision to set up an administrative unit within WIPO for them. Such units already exist in other agencies throughout the UN system. By establishing this unit, WIPO has responded to the aspirations of LDC Member States of WIPO, and would now be in a position to assist them to focus on pertinent issues. The LDCs would be happy to continue to consult with the Director General, the Secretariat and the developed and developing countries in the achievement of their common goal, in making this new unit a part of the permanent structure of WIPO.

12. The Delegation of Mexico, speaking on behalf of the countries of the Latin American and the Caribbean Group (GRULAC), thanked the Director General for his explanations and pointed out that States members of GRULAC had joined the consensus in a spirit of compromise with the various Groups. The countries of GRULAC wanted to make a statement with respect to the draft text of the said decision on agenda items 5 and 6, as follows: “The countries of GRULAC felt that given the importance of the item on the budget surplus, there should have been a preliminary general and substantive debate in the Budget Committee first and then subsequently in the General Assembly. It was their understanding that the proposals put forward by the Director General in document WO/GA/23/2 represented activities additional to the ones included in the budget adopted in March 1998, and that, therefore, additional resources for their implementation should have been allocated. The countries of GRULAC had also noted that these new additional activities could be financed on an exceptional basis from the program and budget resources adopted in March 1998 for the current biennium and that this would not present a precedent for future budget surplus

activities. These new activities should not represent a reduction in the funds of the current budget for Cooperation for Development and the Worldwide Academy, nor should they have any impact on the other parts of the budget currently implemented by the Organization. Finally, the countries of GRULAC would not oppose the recommendation to reduce PCT fees but wished to underscore the fact that, as a general principle, budget surpluses should be allocated to cooperation activities in favor of all developing countries with a view, *inter alia*, to modernizing their institutions responsible for intellectual property and also bringing their legislation into line with new requirements in this field.”

13. The WIPO General Assembly adopted the decision as recorded in paragraph 8 above.

ITEM 8 OF THE CONSOLIDATED AGENDA (Second part):

POLICIES AND PRACTICES FOR THE NOMINATION AND APPOINTMENT OF DIRECTORS GENERAL

14. Discussions were based on document WO/GA/23/6.

15. The Delegation of Bangladesh, speaking on behalf of the Asian Group, recalled that at the meetings of the Working Group on Policies and Practices for the Nomination and Appointment of Directors General and of the WIPO Coordination Committee, a number of delegations had suggested that, in nominating and appointing Directors General, the principle of geographical rotation, as practiced in the United Nations, should be adopted by WIPO.

16. The Delegation of the Netherlands, speaking on behalf of Group B, emphasized Group B’s conviction that the nomination and election of heads of United Nations agencies should not necessarily be subject to geographical rotation.

17. The Chair announced that, following extensive discussions and consultations among the Group Coordinators, the text of a decision had been agreed upon, and then read out the text that is reproduced in paragraph 22, below.

18. The Delegation of South Africa, speaking on behalf of the African Group, accepted the proposal in principle, on the understanding that the policy of limiting the mandates of the Directors General of WIPO shall only be implemented upon the entry into force of the requisite amendment to the WIPO Convention.

19. The Delegation of Mexico, speaking on behalf of the Group of Latin American and Caribbean countries, expressed its agreement with the statement made by the Delegation of South Africa.

20. The Delegation of the Netherlands, speaking on behalf of Group B, expressed its full support for the proposal as read out by the Chair.

21. The Delegation of the Philippines stated that, in concurring with the proposal, that Delegation understood that the proposal would be interpreted in accordance with its ordinary meaning.

22. The WIPO General Assembly agreed to adopt the following text:

1. The WIPO General Assembly

(i) adopts a policy fixing a limitation to the number of mandates that a Director General may serve;

(ii) decides that that policy should limit the number of mandates to two fixed terms of six years each;

(iii) decides that the Convention Establishing the World Intellectual Property Organization (the WIPO Convention) should be amended as soon as possible to reflect the policy set out in the preceding two sub-paragraphs.

2. The WIPO General Assembly adopts the Procedures for the Nomination and Appointment of Directors General of WIPO set out in paragraph 5 of document WO/GA/23/6.

ITEM 10 OF THE CONSOLIDATED AGENDA:

INTEGRATION OF BUDGET AND PREMISES COMMITTEES

23. Discussions were based upon document WO/GA/23/4.

24. The Delegation of Bangladesh, on behalf of the Asian Group, asked for clarification on how to integrate the two Committees into the WIPO Program and Budget Committee and what would be its structure.

25. The Director General, in his reply, stated that this integration means that both Committees would be merged into one and that the membership would initially be the present members of the Budget and Premises Committees.

26. The General Assembly decided by consensus to adopt the proposal referred to in paragraphs 12(i) and (ii) of document WO/GA/23/4.

ITEM 12 OF THE CONSOLIDATED AGENDA:

PREMISES

27. Discussions were based on documents WO/GA/23/5 and WO/BC/20/3-WO/PC/10/3.

28. The Chairman of the Budget and Premises Committees noted that those Committees had met last week, on September 3 and 4. He drew attention to the two decisions of the June 4 and 5, 1998, joint session of the Budget and Premises Committees, to authorize the Secretariat to purchase the "Steiner lot" for 13.5 million Swiss francs, and to ask the Secretariat to submit the future planning for WIPO's new buildings complex. Accordingly, the Secretariat already purchased that lot, which is now referred to as the "new lot", and also submitted the future planning for the new complex. Last week, based upon that, the Budget and Premises Committees discussed three issues: firstly, the elements of the new construction; secondly, the international architectural competition, and thirdly, the costs of the new complex. Three elements of construction were discussed, namely, the new office building on the new lot, the new main conference room and additional parking. As for the new office building, the Chairman of the Budget and Premises Committees noted that the present WIPO, BIRPI I and BIRPI II Buildings, together with the extended World Meteorological Organization (WMO) Building, would provide around 1,000 working places, while the Secretariat needs 500 more working places. The new office building would provide a minimum of 500 working places, so when completed, together with the present buildings and the WMO Building, there would be around 1,500 working places, and possibly some more. As for the new main conference room, it is well known that the present conference room is too small, so it is proposed to have a new conference room which could provide around 600 seats for delegates, with the new conference room being an integral part of the present WIPO Building. As for the additional parking, the enormous problems of insufficient parking for WIPO meetings are well known to delegates. To solve this problem, additional parking space is proposed to be built which with the existing parking spaces, those in the new office building and those in the WMO Building extension would provide about 1,000 parking spaces. The Budget and Premises Committees also discussed the international architectural competition for the new buildings complex. If approved by the General Assembly, the Secretariat would proceed with the international architectural competition. An international jury would be formed, and by May 1999 should select the candidates to participate in the competition, and the jury would meet again in October 1999 to select the winner(s). Once the architecture is decided, the construction of the new complex would be completed by the year 2002. As for the costs, the Secretariat indicated that the overall costs for the three elements of the construction would be between 74.5 million to 82.5 million Swiss francs, which amounts were also discussed by the Budget and Premises Committees.

29. Following its discussions, the Budget and Premises Committees decided to make the proposals to the General Assembly contained in paragraph 34 of document WO/BC/20/3-WO/PC/10/3.

30. The General Assembly approved the proposals contained in paragraph 34 of document WO/BC/20/3-WO/PC/10/3.

ITEM 13 OF THE CONSOLIDATED AGENDA:

REPORT ON THE STANDING COMMITTEES

31. Discussions were based upon document WO/GA/23/1.

32. The Delegation of Bangladesh requested clarification concerning harmonization or standardization of Rules of Procedure for the various Standing Committees. In addition, the Delegation requested that, as the Program and Budget provided for Working Groups to be convened by the Standing Committees, funding be provided for participation of experts from developing countries in those Working Groups.
33. In response to the first request, the Secretariat recalled that the WIPO General Rules of Procedures applied to all Standing Committees, except where a Standing Committee decided to adopt one or more Special Rules of Procedure, for example, concerning membership in the Committee.
34. In response to the second request, the Director General pointed out that there was no specific budgetary allocation for the funding of participation by experts from developing countries to meetings of the Working Groups, but that, if the Assembly wished, the Secretariat would study the possibility.
35. The Delegation of Egypt stated, with respect to the recommendation of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications relating to a resolution of the General Assembly concerning provisions on well-known marks, as referred to in paragraph 18 of document WO/GA/23/1, that the draft Provisions on Well-Known Marks were being studied by its government, and that it would decide its position when the Standing Committee had completed its formulation of the provisions.
36. The Delegation of Sudan referred to the discussion by the Standing Committee on the Law of Patents of the issue of reduction of fees in national patent offices for nationals of developing countries and least developed countries, as referred to in paragraph 9 of document WO/GA/23/1, and recalled that the proposal for such reductions had been supported by a number of countries. The Delegation had hoped that the issue would be discussed at the present meeting, and requested that preparation of a study on this issue by the Secretariat, in particular outlining the relation of the proposal to the provisions of the TRIPS Agreement, be available before the next session of the Standing Committee, so that the issue could be linked to the ongoing work concerning the draft Patent Law Treaty.
37. The Representative of one international non-governmental organization supported the view to expedite work on the issue of reduction of fees, referring to an alternative proposal to grant a 50% reduction of fees to all independent inventors irrespective of the place of residence or country of filing.
38. The Director General pointed out that, as noted in paragraph 9 of document WO/GA/23/1, the Secretariat would collect information on the current situation concerning fee reductions, and present that information to the Standing Committee.
39. The Delegation of France requested clarification concerning the future work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, in particular with respect to the issue of trademarks and the Internet.
40. The Secretariat responded that the agenda for the second session of the Standing Committee, in January 1999, contemplated that priority would be given to a discussion of the use of trademarks on the Internet. Member States had already been requested to provide

comments on two questions which would be discussed at that meeting, namely, how a relationship could be established between a trademark used on the Internet and goods and services, and how a relationship could be established between a trademark used on the Internet and a particular territory. The Secretariat pointed out that the issue of dispute resolution concerning conflicts between trademarks and Internet domain names would be the subject of discussion at the present meeting, under the agenda item relating to electronic commerce.

41. The Delegation of France expressed the concern that, in connection with the timelines indicated in paragraph 25 of document WO/GA/23/1, a careful examination of technical requirements for the global information network was essential to the successful deployment of the network, to obviate the risk of failure that would otherwise arise if the network was hastily designed and implemented. The Standing Committee on Information Technologies should make sure that the implementation plan be discussed in consultation with the Member States. In this regard, the Delegation referred to the timing of other related WIPO projects and requested that the progress of the PCT Automation Project should also be taken into account when implementing the network. The Delegation further advised that, regarding the tender, more than one contractor be selected to implement the project in order to reduce the risk of failure.

42. The General Assembly noted the report contained in document WO/GA/23/1, and approved the work carried out by and planned for the future work of the Standing Committee on the Law of Patents (SCP), the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) and the Standing Committee on Information Technologies (SCIT).

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