

## **Committee on WIPO Standards (CWS)**

### **Third Session Geneva, April 15 to 19, 2013**

#### INFORMAL CONSULTATIONS ON PENDING MATTERS

*Document prepared by the Secretariat*

#### INTRODUCTION

1. At the second session of the Committee on WIPO Standards (CWS), held from April 30 to May 4, 2012, it was decided that under the facilitation of the Chair of the WIPO General Assemblies, Ambassador Uglješa Ugi Zvekić of Serbia, informal consultations on pending matters would be conducted after the second session of the CWS in order to reach an understanding on some pending matters (see paragraph 3, below).

2. The Secretariat has prepared this working document in accordance with the agreement reached during the consultation held on January 22, 2013, between Ambassador Zvekić, in his capacity as Chair of the General Assembly, the Regional Group Coordinators and several representatives of Geneva based Missions. That agreement stated that this working document should contain only factual information regarding the outcome of the second session of the CWS, of the WIPO General Assembly held in October 2012, as well as information regarding the status of the continued consultations after the said General Assembly. (See paragraph 5, below.)

## SECOND SESSION OF THE CWS

3. The following text is a reproduction of the corresponding paragraphs of the report of the second session of the CWS (document CWS/2/14):

### “Agenda Item 3: Adoption of the agenda

“9. The CWS adopted the agenda as proposed in document CWS/2/1 Prov., which appears as Annex II to this report. Some delegations stated that the adoption of the agenda was without prejudice to the right of delegations to propose an agenda item on coordination mechanism in the agendas of the next sessions of the CWS.

### “Agenda Item 5: Organizational matters and special rules of procedure

“13. The proposal prepared by the Secretariat was presented in document CWS/2/2.

“14. Following consultation with some Ambassadors, Ambassador Uglješa Ugi Zvekić of Serbia, in his capacity as Chair of the WIPO General Assemblies, stated that:

‘At an informal consultation held this morning at the ambassadorial level, it was agreed to propose through the Chair of the General Assemblies, to the Committee of WIPO Standards (CWS) the following:

‘The Committee adopts a draft agenda as initially proposed;

‘The Chair's summary records conclusions of the technical work done at the present session;

‘The Chair's summary also records differences of views expressed in regard to the coordination mechanism, the mainstreaming of the Development Agenda recommendations and expression thereof in the special rules of procedure;

‘Under the facilitation of the Chair of the WIPO General Assemblies, informal consultations on the coordination mechanism, the mainstreaming of the Development Agenda recommendations and expression thereof in the special rules of procedure will be conducted after the second session of CWS in order to reach an understanding preferably before the forthcoming autumn session of the General Assemblies.’

“15. The CWS agreed to follow the suggestion made by the Chair of the General Assemblies. Some delegations made statements expressing different views concerning the issues mentioned above for the informal consultations. One view expressed the understanding that the recommendations of the Development Agenda should form an integral part of the work of the CWS, and the importance of the coordination mechanism to mainstream Development Agenda in all WIPO bodies. The other view expressed the understanding that the CWS should focus on developing WIPO Standards and leave the other issues to the Secretariat as agreed on in the clarification of the CWS mandate by the General Assembly in 2011, and considered that the CWS should therefore fall outside of the coordination mechanism. It was noted that these statements should be reflected in the draft report of the second session of the CWS. Consequently, no agreement was reached on organizational matters and special rules of procedure.

“16. The CWS noted the clarification made by the International Bureau that the General Rules of Procedure of WIPO will apply to the CWS until an agreement can be reached on the CWS organizational matters and special rules of procedure.”

WIPO GENERAL ASSEMBLY (OCTOBER 2012)

4. A status report of the informal consultation facilitated by Ambassador Zvekić was given at the WIPO General Assembly (see the following text of relevant paragraphs of the report of the forty-first session of the WIPO General Assembly, held from October 1 to 9, 2012, document WO/GA/41/18).

“ITEM 28(iii) OF THE CONSOLIDATED AGENDA

“COMMITTEE ON WIPO STANDARDS (CWS)

“233. Discussions were based on document WO/GA/41/16.

“234. The Secretariat explained the document and recalled that the CWS was created in 2009 to continue technical work on WIPO Standards previously performed by working groups for the last 30 years. It was also recalled that, last year, the General Assembly clarified the mandate of the CWS. With this mandate, technical discussions for developing WIPO standards made good progress by means of electronic correspondence and a web-based electronic forum open to all CWS members. The Committee considered six existing WIPO Standards for revision, updating and follow-up implementation. One new standard was adopted. This marked a significant achievement of five years extensive discussions by experts and finally became an international technical standard which recommended the most up-to-date format and structure of all types of industrial property data. It was expected to promote on-line data exchange by machine-to-machine transmission and search/examination file sharing projects among IP offices and WIPO. Concerning organizational and procedural matters of the Committee, at the second session in April-May this year, the Committee did not reach an agreement on special rules of procedure. The Committee agreed that the Chair of the WIPO General Assembly should conduct informal consultations on these remaining issues after the second session of the CWS in order to reach agreement. Since then, several informal consultations were conducted. Further sessions were foreseen in the forthcoming weeks with the hope that the issues will be resolved before the end of this year and in good time before convening the next session of the CWS. The Assemblies was invited to take note of the context of the Report.

“235. The Delegation of Egypt, speaking on behalf of the African Group, referred to the fact that many consultations had been undertaken following the last meeting of the CWS in order to reach a settlement on how the Committee could continue its work with regard to the DA, especially through working with the Chair of the General Assembly. The Delegation stated that during these consultations, it was discussed how the CWS could implement the decision of the Assemblies taken in 2009 with regard to the coordination mechanism. The Delegation noted that, unfortunately, no settlement had been achieved. The African Group welcomed continued consultations with the Chair of the General Assembly to find an acceptable solution. The Delegation reaffirmed its confidence that the work of the CWS would need to have a direct relationship with the DA, especially with regard to the first group of the DA recommendations on technical assistance and capacity building, and with regard to the second part of the recommendations concerning norm-setting. The Delegation indicated that WIPO and its Member States had accepted in the budget for 2012 and 2013 to set down these standards which should fall within the DA. Finally, the Delegation welcomed the continuation of sufficient consultations within a time frame in order to reach an agreement on the Committee's work based on the DA recommendations so as to guarantee that there is a benefit for the Member States to achieve developmental goals for the developing countries.

“236. The Delegation of China appreciated the work of the CWS over the last year. The Delegation indicated that it would continue to actively take part in the work of CWS as well as in its standard revision work.

“237. The Delegation of Brazil, speaking on behalf of the DAG, commended the efforts of the Chair to promote the informal consultations on the coordination mechanism, the mainstreaming of the DA recommendations and their expression in the special rules of procedure. The DAG actively participated in those consultations. The DAG recalled that the General Assembly had adopted, in 2010, a clear mandate related to the coordination mechanism and the implementation of the DA recommendations that should be followed by all relevant bodies. The DA should form an integral part of the work of the CWS. The Delegation stated that the CWS’s activities had an impact on capacity building and thus, the CWS should be considered as a relevant body and report on its contribution to the effective implementation of the DA. The DAG further stated that it had had a constructive approach in these helpful consultations, even though the Member States were not able to reach a conclusion. The DAG supported the continuation of the informal consultations and encouraged Member States to engage in this process in order to agree on an effective and a simple mechanism that would allow the CWS to develop its technical work in full compliance with the DA recommendations.

“238. The Delegation of the United States of America, speaking on behalf of Group B, appreciated the efforts of the Chair of the General Assembly in conducting informal consultation for the last few months, and stated that Group B was still unconvinced that the CWS fell within the coordination mechanism of the DA. The Delegation stated that Group B did not want to see the work of the CWS sided tracked. The Delegation further stated that Group B would participate in future consultations to allow the experts of the CWS to do their important work.

“239. The Representative of the European Union, speaking on behalf of the European Union and its member states, endorsed the statement made by the Delegation of the United States of America on behalf of Group B.

“240. The Delegation of Japan supported the statement made by the Delegation of the United States of America on behalf of Group B. The Delegation appreciated the efforts of the Chair of the General Assembly in conducting informal consultations. The Delegation hoped that the efforts should result in a mutual agreement on pending issues and stressed the importance of WIPO Standards as technical matters which are essential to the basic infrastructure of IP for IP offices and users of the IP system. The Delegation stated that the CWS should be allowed to focus on technical work and to advance it.

“241. The Delegation of South Africa supported statements made by the Delegation of Egypt, on behalf of the African Group, and the Delegation of Brazil, on behalf of the DAG. The Delegation regretted that the CWS could not reach agreement on special rules of procedure because the proposed rules did not integrate the DA coordination mechanism. The Delegation expressed its hope that Member States could reach an agreement before the next session of the CWS.

“242. The Delegation of Algeria endorsed statements made by the Delegation of Egypt, on behalf of the African Group, and the Delegation of Brazil, on behalf of the DAG. The Delegation stated that the CWS should not be an exception to the DA coordination mechanism. The Delegation would continue participating in informal consultations with the Chair, hoping to reach a solution before the next session of the CWS.

“243. The Delegation of Switzerland agreed with the statement made by the Delegation of the United States of America, on behalf of Group B. The Delegation stated that it had

been surprised that discussions during the last session of the CWS continued on the mandate and the rules of procedure after the decision of the General Assembly last year. The Delegation did not understand why the CWS should be a relevant body of the DA coordination mechanism. The Delegation reaffirmed its commitment to take part in the discussions that the Chair would convene, in order to find a solution to this problem and to allow the CWS to finally work in an optimal manner.

“244. The Delegation of Monaco expressed its thanks for the consultations that the Chair had held, where Monaco had actively participated. The Delegation agreed with the statement made by the Delegation of the United States of America, on behalf of Group B, and further stated that it was not yet convinced that the CWS was a relevant body of the coordination mechanism for the DA.

“245. In conclusion, the Chair indicated that he would continue to consult with Member States on the subject matter, hoping to find an appropriate solution before the next meeting of the CWS.

“246. The WIPO General Assembly took note of the contents of document WO/GA/41/16.”

#### STATUS OF THE CONTINUED CONSULTATIONS

5. The following text is the Summary of the Consultation of Regional Group Coordinators on Pending CWS Matters:

“During the consultation, held at WIPO on January 22, 2013, between Ambassador Zvekić, in his capacity of the Chair of the General Assembly, the regional group coordinators and several representatives of Geneva based missions (the participants), the following agreement was reached in relation to the pending CWS matters:

- “– The participants agreed that the third session of the CWS would be held from April 15 to 19, 2013; the invitation for the meeting should be issued;
- “– The participants agreed that the technical work and discussion at the next session of the CWS will not be impeded by consideration of certain pending matters on the understanding that a draft agenda of the third session of the CWS will include an item concerning the consultations on the pending matters; an outline of a document will be prepared by the Secretariat for the agenda item, which should contain only factual information regarding the outcome of the second session of the CWS, of the General Assembly held in October 2012, as well as of the status of the continued consultations after the General Assembly;
- “– In preparation of the next meeting of the CWS, participants agreed to be fully engaged in the ongoing consultations on the pending matters before the CWS third session, and in order to facilitate the consultations, Ambassador Zvekić designated a core group of four delegations from Algeria, Belgium, Brazil and Poland. This group was requested to undertake all the necessary consultations with the objective to reach an agreement on the solution of the pending matters. Consultations by the core group are open to participation by any other interested member-state; regional coordinators will be kept informed on the time and venue of the core group consultations in order to share it with other members of the regional group; the Secretariat is expected to provide, upon request, an adequate assistance to the work of the core group;

- “– The core group may wish to update Ambassador Zvekić, as deemed needed at certain points in time, on progress made or the lack thereof; it was agreed that the outcome of the consultations by the core group would be presented to Ambassador Zvekić by the end of March.”

*6. The CWS is invited to take note of the contents of the present document.*

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