

C. N 3991

The Chair of the General Assembly of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to refer to Note C. N 3989, dated April 14, 2020, regarding the Sixtieth Series of Meetings of the Assemblies of the Member States of WIPO (WIPO Assemblies) on May 7 and 8, 2020, and Note C. N 3990 dated April 22, 2020, confirming that the requisite quorum and the required majority were met to conduct, exceptionally, the meeting of the WIPO Assemblies to appoint the next Director General in the form of a written procedure. Accordingly, WIPO Member States have authorized the Chair to circulate the relevant draft decisions regarding the appointment of the next Director General for their consideration and eventual adoption.

In this regard, the Chair wishes to communicate the following two draft decisions to be taken, in the form of the aforementioned written procedure, by the WIPO Assemblies on May 7 and 8, 2020, as set forth in documents A/60/2, paragraph 5, and WO/GA/52/1 Rev. paragraph 5, respectively:

“The WIPO General Assembly and the Assemblies of the Paris and Berne Unions, each as far as it is concerned, are invited to:

- (i) consider the nomination of the WIPO Coordination Committee referred to in paragraph 3 of document A/60/2; and
- (ii) appoint Mr. Daren Tang as Director General for a term from October 1, 2020, to September 30, 2026.”

“The WIPO General Assembly is invited to approve the Conditions of the Appointment of the Director General, as set forth in Annex I to document WO/GA/52/2 Prov.”

With respect to the decision proposed regarding the conditions of appointment of the Director General, a Summary by the Chair (document WO/GA/52/2 Prov.), detailing the informal consultations and relevant exchanges among members of the Working Group on the Conditions of the Appointment of the Director General-Elect (Working Group), which led to informal agreement among Member States on those conditions, is attached to this Note.

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It is recalled that, pursuant to the written procedure as set forth in Note C. N 3989 and as agreed by Member States, in the absence of explicit objection, in the form of a negative written response, within 7 calendar days, or no later than 5 p.m. May 4, 2020, the above-mentioned draft decisions shall be considered adopted.

In this context, it is also recalled that Member States will have a separate opportunity to provide any written statements that they wish to be reflected in the official report of the meeting ; the written procedure is exclusively for the purpose of adopting the draft decisions under consideration, and shall not be used as the format through which Member States make any general observations or interventions. Member States are requested to provide any such statements to be included in the formal report of the meeting to the International Bureau by May 7, 2020. Thereafter, the relevant decisions are adopted and the meeting of the WIPO Assemblies closed on May 8, 2020.

April 27, 2020



[Document WO/GA/52/2 Prov. follows]

WIPO General Assembly

Fifty-Second (28th Extraordinary) Session Geneva, May 7 and 8, 2020

SUMMARY BY THE CHAIR

prepared by the Chair

1. On April 20, 2020, WIPO Member States agreed to the proposal of the Director General of WIPO, as contained in Note C. N 3989, to conduct, exceptionally, the May 7 and 8 meeting of the WIPO General Assembly, the Paris Union Assembly and the Berne Union Assembly to appoint the next Director General of WIPO in the form of a written procedure. In so doing, Member States authorized the Chair of the General Assembly, to circulate the draft decisions for their consideration, and, eventual adoption.
2. As per past practice, a “Working Group on the Conditions of the appointment of the Director General-Elect” (Working Group) was to be appointed by the WIPO General Assembly to provide recommendations on these conditions so that they may be fixed, or adopted, by the General Assembly. The Chair of the WIPO General Assembly presides over the Working Group, and the Chair of the WIPO Coordination Committee is its Vice-Chair. The other members of the Working Group consist of: (1) the Vice-Chairs of the WIPO General Assembly and of the WIPO Coordination Committee; and (2) the Coordinators of the African Group, the Asia and Pacific Group (APG), the Group of Central Asian, Caucasus and Eastern European Countries (CACEEC), the Group of Central European and Baltic States (CEBS), Group B, the Group of Latin American and Caribbean Countries (GRULAC), and China.
3. Due to the restrictions in place as a result of the COVID-19 pandemic, and consistent with the proposal for, and eventual agreement of Member States to proceed, exceptionally, with a written procedure for the conduct of these meetings, the Chair proposed a similarly exceptional approach to the work of the Working Group. As detailed in document WO/GA/52/1 Rev., the Chair proposed to convene the Working Group informally and to engage in consultations with it to provide recommendations regarding the conditions of appointment of the Director General.

As further proposed in that document, the results of the informal consultations would be reflected in the present Summary by the Chair, to be annexed to the circular containing the proposed decisions for adoption as part of the written procedure agreed by Member States for the conduct of the May WIPO Assemblies.

4. To this end, the Chair invited views and comments from the Working Group as of April 20, 2020, on the draft contract for the Director General (as based on document WO/GA/52/1 Rev. ANNEX), so that any proposals or recommendations on which informal agreement had been reached could be reflected in the draft decisions circulated on April 27, 2020. The Chair also organized a virtual meeting on Wednesday, April 22, 2020, with the Working Group.

5. During the April 22 meeting, the Chair first noted that 151 Member States had responded affirmatively to confirm their consent to the written procedure, and had thereby authorized the Chair to circulate the draft decisions to which the present Summary by the Chair is annexed, and that reflect the informal consultations. The Chair of the WIPO Coordination Committee, His Excellency François Rivasseau, Permanent Representative of France, the Vice-Chairs of the WIPO General Assembly, His Excellency Esmaeil Baghaei Hamaneh, Permanent Representative of Iran (Islamic Republic of), and His Excellency Victor Dolidze, Permanent Representative of Georgia, and the Vice-Chair of the WIPO Coordination Committee, His Excellency Andreano Erwin, Deputy Permanent Representative of Indonesia, all expressed their support both for the informal process underway and for the draft contract under consideration.

6. The Chair then requested Group Coordinators to express their views on behalf of their Group Members. Zimbabwe, on behalf of the African Group, expressed its support for the proposed conditions of appointment of the Director General, and the text of the contract, as currently drafted.

7. Singapore, on behalf of the APG, raised three points with respect to the process and substance of the conditions of appointment: (1) the two decisions, namely to appoint the next Director General, and to fix the conditions of his appointment, should be adopted at same time; (2) the conditions of the Director General appointment are also set out in the WIPO Convention and WIPO Staff Regulations and Rules; and (3) any changes to the contract should be limited to technical updates and details, such as contract dates and names of parties.

8. The Russian Federation, on behalf of CACEEC, noted that the benefits of the Director General are consistent with standards for agency Executive Heads and that its group is of the view that the current text of the contract is in line with established practice and should be left as is. CACEEC also agreed with the modalities as presented by the Chair, and they hoped to reach a mutually acceptable and consensual solution.

9. Latvia, on behalf of CEBS, expressed that it was pleased to hear that more than 150 Member States had accepted the written procedure, for which its group had a 100per cent response and acceptance rate. The Coordinator noted that while he had not seen other proposals, he noted that in the current, exceptional, circumstances, it would be difficult to conduct negotiations on any such proposal. Consequently, he recommended that the Working Group follow existing practice and adopt the draft contract as proposed. He also noted that he could anticipate work on proposed amendments for the following term of the Director General, to begin in six years, for which the Working Group would have a better opportunity to conduct negotiations.

10. China confirmed its support for the text of the contract as currently drafted.

11. Germany, on behalf of Group B, noted that the agreement of over 150 Member States to the written procedure was a good result, and was also pleased to confirm that Group B similarly had a 100 per cent response and acceptance rate. The Coordinator then expressed his desire to make four points: (1) his Group could support the text of the contract as currently drafted for the term of the Director General beginning 2020; (2) due to the current extraordinary circumstances, Group B Members were not able to effectively engage in discussions on proposed amendments; (3) Group B would therefore refrain from introducing textual changes at this time, but requested that, before the 2021 Assemblies, the Chair of the General Assembly hold informal consultations concerning possible amendments as regards the term of the Director General beginning 2026; and (4) requested that this be reflected in the present Summary by the Chair.

12. Jamaica, on behalf of GRULAC, expressed its appreciation for the preparation of the working documents and the consultations, and was pleased to hear the large number of Member States responding affirmatively to the written procedure. The Coordinator noted that it had consulted with members of its Group on the draft text of the contract and that while a number of members had provided feedback, others were still consulting with capitals. It had not received any proposals for amendments, and, for Group members that provided feedback, they indicated their preference to avoid changes given that the current contract terms have worked effectively and that it was difficult to conduct negotiations in the absence of face-to-face meetings. Consequently, the *status quo* was best. The Coordinator added that any changes would need to be based on international law and applicable WIPO rules. Further, in these circumstances, consideration of and agreement to any changes would be difficult as some capitals were operating under emergency measures, which would cause delays.

13. In concluding the meeting, the Chair requested the Working Group to convey any additional comments by the close of business on April 23, 2020 so that they could be properly reflected in the Summary by the Chair and draft decisions, as appropriate. No further comments were received.

14. Consequently, in considering the conditions of the appointment of Mr. Daren Tang as Director General, the Working Group decided to recommend to the WIPO General Assembly the same conditions that the WIPO General Assembly approved in 2014 when Mr. Francis Gurry was appointed, modified to reflect an annual inflationary adjustment in respect of the housing and representation allowances in accordance with the Consumer Price Index (CPI) for Geneva. In addition to the representation and housing allowances stipulated in the contract, the Working Group also received, at the outset of the informal consultations, an indicative estimate of the monthly remuneration of Mr. Tang, provided by the International Bureau based on the United Nations common system financial parameters given in March 2020. The conditions of the appointment of Mr. Daren Tang as Director General, as reflected in the draft contract and indicative estimate of monthly remuneration, are set out in Annexes I and II, respectively, to this Summary by the Chair.

[Annex I follows]

CONTRACT OF THE DIRECTOR GENERAL

THIS CONTRACT is entered into this [...] day of [...] 2020

between

the WORLD INTELLECTUAL PROPERTY ORGANIZATION (hereinafter
called “the Organization” or “WIPO”)

and

Mr. Daren Tang

WHEREAS:

- A. Article 6(2)(i) of the Convention Establishing the World Intellectual Property Organization (hereinafter called “the WIPO Convention”) provides that the WIPO General Assembly shall appoint the Director General of WIPO upon nomination by the WIPO Coordination Committee.
- B. Article 9(3) of the WIPO Convention provides, *inter alia*, that the Director General of WIPO shall be appointed for a fixed term, which shall be not less than six years, and that the period of the initial appointment, as well as all other conditions of the appointment, shall be fixed by the WIPO General Assembly.
- C. The term of the appointment may end according to the relevant provisions as set out in the WIPO Convention and the Staff Regulations and Rules of the International Bureau of WIPO.
- D. Upon the nomination of the WIPO Coordination Committee, the WIPO General Assembly appointed Mr. Tang as Director General of WIPO on May 8, 2020.

IT IS HEREBY AGREED AS FOLLOWS:

Term of Appointment

1. The appointment of Mr. Tang as Director General of WIPO shall be for a fixed term of six years, commencing on October 1, 2020.

Salary and Allowances

2. Throughout the term of his appointment, the Organization shall pay to Mr. Tang

(1) an annual net salary equivalent to the highest salary payable to the Head of a Specialized Agency of the United Nations which has its headquarters in Geneva;

(2) an annual representation allowance of 62,870 Swiss francs, which will be updated annually according to the Consumer Price Index (CPI) for Geneva*; and

(3) an annual housing allowance of 77,145 Swiss francs, which will likewise be updated annually according to the CPI for Geneva.

3. The Organization shall make available to Mr. Tang a car and chauffeur for official duties and pay the expenses relating thereto.

4. Mr. Tang shall be entitled to appropriate security protection, where necessary.

Pension

5. Mr. Tang shall be entitled to participate in the United Nations Joint Staff Pension Fund, in accordance with the Regulations and Rules of that Fund and with the pensionable remuneration determined in accordance with the methodology of the General Assembly of the United Nations.

* The CPI for Geneva is issued by the Office cantonal de la statistique

Application of the WIPO Staff Regulations and Staff Rules

6. Except as may be otherwise modified herein, Mr. Tang shall have the rights and assume the obligations which are provided for in the Staff Regulations and Staff Rules of the International Bureau of WIPO.

IN WITNESS WHEREOF, THE PARTIES HAVE THIS [...] DAY OF [...] 2020
SIGNED THESE PRESENTS

Omar Zniber
Chair
WIPO General Assembly

Daren Tang

[Annex II follows]

Monthly Remuneration - Director General

The calculation is an indicative estimate of what would be the monthly remuneration of Mr. Daren Tang as Director General of WIPO pursuant to WIPO Staff Regulations 3.1 and 3.5 based on the parameters given in March 2020*)
 (in addition to the Representation and Housing Allowances included in his contract)

Net monthly salary [(\$ 168'782 x 0.97) : 12]	SFr. 13,643.20
Post Adjustment Geneva [(\$ 168'782 x 0.97 x 0.782) : 12]	SFr. 10,669.00
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	SFr. 24,312.20
DG's Contribution UNJSPF [(\$ 389'766 x 0.97 x 0.079) : 12]	-SFr. 2,489.00
DG's Contribution Social Security Insurance**)	-SFr. 298.00
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Monthly pay	SFr. 21,525.20

*) Official United Nations exchange rate in March 2020: 1 US\$ = 0.97 Swiss francs
 Post Adjustment multiplier for Geneva in March 2020: **78.20**

***) contribution to the medical insurance of the DG only; dependants not considered

[End of Annex II and of document]