

WIPO Coordination Committee

Sixty-Seventh (44th Ordinary) Session
Geneva, September 23 to October 2, 2013

APPROVAL OF AGREEMENTS

Memorandum by the Director General

I INTRODUCTION

1. In accordance with Article 12(4) of the Convention Establishing the World Intellectual Property Organization, any agreement concluded with a view to defining the legal status of WIPO on the territory of a Member State, shall be approved by the Coordination Committee.

II. AGREEMENT BETWEEN WIPO AND THE PEOPLE'S REPUBLIC OF CHINA

2. The Director General of WIPO and the Government of the People's Republic of China have prepared an agreement aimed at determining the legal status of a WIPO Office in China. The text of the Agreement between WIPO and the Government of the People's Republic of China is set forth as Annex I to the present document.

III. AGREEMENT BETWEEN WIPO AND THE RUSSIAN FEDERATION

3. The Director General of WIPO and the Government of the Russian Federation have prepared an agreement aimed at determining the legal status of a WIPO Office in the Russian Federation. The text of the Agreement between WIPO and the Government of the Russian Federation is set forth as Annex II to the present document.

4. The Coordination Committee is invited to approve the Agreement between WIPO and the Government of the People's Republic of China and the Agreement between WIPO and the Government of the Russian Federation as set forth in Annexes I and II of this document.

[Annexes follow]

AGREEMENT BETWEEN
THE WORLD INTELLECTUAL PROPERTY ORGANIZATION
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE ESTABLISHMENT OF A CHINA OFFICE OF THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION

The World Intellectual Property Organization ("WIPO") and the Government of the People's Republic of China (the "Government") (hereinafter referred to as "Party" in singular, or "the Parties" collectively);

Aware of the benefits that may derive from closer cooperation between the Parties in fostering development in the field of Intellectual Property ("IP");

Desiring to further promote cooperation between the Parties on their common goal of further enhancement in the field of IP;

Recognizing that a dedicated WIPO office in China will serve as a visible symbol of WIPO's strong commitment in China on IP development as well as lending weight to the project or initiative promulgated by WIPO within its mandate and responsibilities;

Have agreed as follows:

ARTICLE 1: SCOPE OF ACTIVITIES

WIPO will establish a WIPO office in Beijing, China ("Office"), which will contribute to WIPO's work in, and objective for China, and/or such other countries as WIPO may designate. The scope of activities of the Office will mainly cover the following:

1. Representing WIPO and promoting closer relations and cooperation between WIPO and the Government, industry and private sector as well as the general public at large;
2. Providing legal and technical assistance concerning IP as requested by the concerned authorities and entities mentioned in (1) above, assisting in ongoing WIPO norm-setting work and other such initiatives in promoting the development of IP, including copyright and related rights, patents and trademarks as well as other IP areas;
3. For the purpose of promoting the creation, utilization, protection and management of IP, including copyright and related rights, patents and trademarks, the Office will promote WIPO services in respect of the PCT, Madrid, Hague and Lisbon systems, copyright and related rights, as well as other IP rights, in cooperation with competent Government authorities;
4. Providing assistance in processing the international applications filed under the PCT, Madrid and Hague systems by Chinese applicants;

5. Assessing and advising WIPO Headquarters on pertinent issues, new opportunities and developments which will have important input into WIPO' s work in general.

ARTICLE 2: LEGAL CAPACITY

The Office shall be considered for the purpose of this Agreement as having a legal personality and shall enjoy in the territory of China such legal capacity as may be necessary to exercise its functions and to fulfill its purposes.

ARTICLE 3: PRIVILEGES AND IMMUNITIES

The Office shall enjoy privileges and immunities similar to those China grants to the China Offices of specialized agencies of the United Nations, and as set out in the MoU to this Agreement.

ARTICLE 4: REMUNERATION OF THE OFFICIALS

WIPO will bear the salary, benefits and allowances as well as other related logistical arrangements for its staff serving with the Office, in line with its staff regulations and rules as well as its prevailing policies.

ARTICLE 5: DUTY OF THE OFFICIALS

Dedicated to cooperation with the Government, officials serving with the Office have a duty to respect the laws and regulations of China, and also have a duty not to interfere in the internal affairs of China.

ARTICLE 6: PREMISES AND EQUIPMENT

1. The Government will provide WIPO with suitable premises for use as the Office, and cover the rental cost of such premises as well as such utility charges and maintenance costs (full details of which are set out in the MoU to this Agreement), provided that the provision of such premises will not accord WIPO with legal ownership in respect of the premises so provided.

2. The Government will provide basic outfitting costs related to the set-up of the Office, which will include such furniture and IT equipment as may be necessary for installation and operation, including professional processing works, of the said Office.

3. The Government will provide the Office with suitable security arrangements.

ARTICLE 7: RESOLUTION OF DISPUTES

Any dispute regarding this Agreement will be resolved amicably by negotiations between the Parties.

ARTICLE 8: FINAL PROVISIONS

1. The Parties hereby agree that the final provisions of the MoU to this Agreement shall be agreed upon as soon as possible after the signature of this Agreement.

2. This Agreement may be amended by mutual consent of the Parties. Any such amendment will not prejudice any right or obligation accruing or incurred prior to the effective date of the amendment.

3. This Agreement shall enter into force on the date of the last notification where either Party notifies the other in writing of the completion of the respective internal procedures required for the entry into force of this Agreement.

4. Notwithstanding the provisions of paragraph 3 of this Article, this Agreement shall be provisionally applied by the Parties from the date of its signature.

5. This Agreement will remain in force for a period of 6 years after its entry into force. The Parties will review the Agreement 6 months prior to its expiration. This Agreement may be extended by mutual consent for subsequent 6 year periods. It may be terminated by mutual consent.

WITNESS CLAUSES

Done at Geneva on April 25, 2013, in two copies, each in the English and Chinese languages, both texts being equally authentic.

For the World Intellectual
Property Organization
(WIPO)

For the Government of the People's
Republic of China

Francis Gurry
Director General

LIU Zhenmin
Ambassador and
Permanent Representative

[Annex II follows]

AGREEMENT BETWEEN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION
AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION ON THE ESTABLISHMENT OF AN
OFFICE OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION IN THE
RUSSIAN FEDERATION

The World Intellectual Property Organization and the Government of the Russian Federation, hereinafter referred to as the Parties,

Aware of the benefits that may derive from closer cooperation between the Parties in fostering the development of the global system of intellectual property;

Taking into consideration that the Government of the Russian Federation expresses its interest that the World Intellectual Property Organization establishes its Office in the Russian Federation (hereinafter referred to as the Office) and its interest in ensuring to that Office the availability of all necessary facilities and conditions;

Taking into consideration the interest of the World Intellectual Property Organization (hereinafter referred to as the Organization) in establishing the Office in Moscow for the purposes of carrying out the mandate of the Organization, including promotion of the protection of intellectual property;

Considering the laws and regulations of the Russian Federation conferring privileges and immunities on international organizations;

Have agreed as follows:

ARTICLE 1: GENERAL PROVISIONS

The Organization shall establish the Office that shall be staffed with officials assigned by the Organization.

The activities of the Office shall be performed in accordance with the Organization's mandate, including the following areas:

1. supporting services for the Organization's Global Intellectual Property Systems;
2. delivering technical assistance in relation to the Organization's global infrastructure programs;
3. capacity-building activities in the field of intellectual property.

ARTICLE 2: ORGANIZATION'S CONTRIBUTION

The Organization shall bear the expenses on salary, benefits and allowances of its officials at the Office, as well as those locally recruited, and shall be responsible for the transportation and housing arrangements of the officials of the Office in the Russian Federation and costs for them in accordance with the Organization's established rules and regulations.

ARTICLE 3: CONTRIBUTION OF THE GOVERNMENT OF THE RUSSIAN FEDERATION

1. The Government of the Russian Federation shall provide the Office with suitable premises on a basis of a contract for gratuitous use. The Government of the Russian Federation shall also provide free of charge the Office for the purposes of its operation with movable property, maintenance of equipment and devices, as well as maintenance and security services for the premises of the Office.

The Government of the Russian Federation shall provide public utility services, such as water, electricity, sewerage, fire protection and other services that may be needed for ensuring Office activity. Movable and real property, which belongs to the Russian Federation and which is transferred to the Office for it to perform its functional activity shall be provided for temporary use and cannot be alienated without the consent of the Government of the Russian Federation.

2. The Government of the Russian Federation shall render assistance to the Office in searching for and/or affording appropriate living quarters for the officials of the Office, with the Government of the Russian Federation bearing no costs for searching for and renting such premises.

ARTICLE 4: LEGAL CAPACITY

The Office shall be considered for the purposes of this Agreement as having a legal personality and shall enjoy in the territory of the Russian Federation such legal capacity as may be necessary to exercise its functions and to fulfill its purposes, in particular, the Office shall have the capacity:

1. to contract;
2. to acquire and dispose of movable and real property;
3. to institute legal proceedings.

ARTICLE 5: PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION AND THE OFFICE

1. The Office in the course of its official communications shall enjoy in the territory of the Russian Federation a treatment not less favorable than that accorded by the Russian Federation to any other intergovernmental organization to the extent that this is not contrary to rules of international law.

2. Being unlimited by financial controls, rules or moratoria of any kind, the Organization and the Office have the right to:

- a) hold and use funds, gold and accounts in any currency and convert any currency at their disposal into any other currency;
- b) transfer their funds, gold or currency from one country to another or within the territory of the Russian Federation;
- c) be accorded the most favorable, legally available rate of exchange for its financial transactions.

3. While enjoying these rights pursuant to paragraph 2 of this Article, the Office shall pay due regard to any submissions on the part of the Government of the Russian Federation, as it is recognized that such submissions may be taken into account without prejudice to the interest of the Office.
4. Assets, income and other property of the Office shall be exempt from all direct taxes (income and property taxes). However, it shall be assumed that the Office will not claim exemption from concrete types of services, mentioned in paragraph 1 of Article 3 of this Agreement, rendered by any legal entity at identified rates according to the amount of services, which can be specifically identified, described and itemized. The Office shall be exempt from value added tax under conditions envisaged by the Russian Federation legislation.
5. The Organization and the Office shall be exempt from mandatory charges such as employer compulsory contribution to national social insurance schemes in respect of the officials of the Office who are covered by the Organization's social protection provisions.
6. In addition to those exemptions granted by virtue of paragraphs 4 and 5 of this Article, the Office shall be granted exemptions in accordance with paragraphs (b) and (c) of Section 9 of the Convention on Privileges and Immunities of the Specialized Agencies dated 21 November 1947.
7. Property and assets of the Office, wherever located and by whomever held shall not be subject to search, requisition, seizure, expropriation and any other form of interference by way of executive, administrative, judicial or legislative actions.
8. The Organization, the Office and the officials of the Office shall be insured against the risk of their civil liability, which may occur as a consequence of a damage to life, health or property, caused by a transport vehicle owned by the Organization, the Office or by the officials of the Office or driven by the latter.
9. The premises of the Office shall be inviolable. Nevertheless, the Director of the Office shall have the right and duty to waive such immunity in any case where, in his/her opinion, the immunity would impede the course of justice and could be waived without prejudice to the Office. The representatives of the Government of the Russian Federation shall not enter the premises of the Office to execute any official duties except with explicitly expressed consent of the Director of the Office and under conditions approved by him/her. Such consent is not necessary in case of natural disaster, fire, or other emergencies, posing a serious and direct threat to the security of persons who are on the premises of the Office, as well as to the premises and buildings located in immediate vicinity.
10. The Government of the Russian Federation takes appropriate measures aimed at ensuring protection of the Office from unauthorized entry of persons or groups of persons from outside or as a result of disturbances in the immediate vicinity.
11. Without prejudice to the provisions of paragraph 9 of this Article, the Organization and the Office shall do its utmost to prevent the Office from becoming a refuge either for persons who are avoiding arrest or are required for extradition to another country, or for persons who are endeavoring to avoid service of legal process or otherwise avoid legal responsibility for infringements.
12. The archives of the Office shall be inviolable.

ARTICLE 6: PRIVILEGES AND IMMUNITIES OF THE OFFICIALS OF THE OFFICE

1. The Officials of the Office:
 - a) shall be immune from legal process in respect of words spoken or written by them or for all actions performed by them in their official capacity. This immunity shall continue to be granted after termination of employment with the Office;
 - b) shall be exempt from taxation on salaries and other emoluments paid to them by the Organization or by the Office;
 - c) shall be exempt from all mandatory social insurance charges on condition that they are covered by the internal social security provisions of the Organization;
 - d) shall be exempt, together with close relatives of the officials of the Office, namely, spouse, children, parents, brothers and sisters, as determined by the Director of the Office (hereinafter – dependents), from national service obligations;
 - e) shall enjoy the same privileges in respect of currency exchange as are accorded in the Russian Federation to officials of comparable rank of foreign diplomatic missions;
 - f) shall enjoy the right to hold bank accounts in national or foreign currency, shall have the right to transfer freely their funds in national or foreign currencies from one country to another or within the Russian Federation according to the procedure applicable in the Russian Federation;
 - g) shall be granted, along with their dependents, the same repatriation privileges during international crises as are granted in the Russian Federation to the officials of comparable rank of foreign diplomatic missions;
 - h) shall have the right to import free of duty their furniture and effects at the time of first taking up their post.
2. The alienation of articles imported in accordance with sub-paragraph “h” of paragraph 1 of Article 6 of this Agreement may only be possible pursuant to the Russian Federation legislation.
3. The Director of the Office shall enjoy the same privileges and immunities, which are granted in the Russian Federation to officials of comparable rank of foreign diplomatic missions. For this purpose the name of the Director of the Office may be included in the list of the Diplomatic Corps.
4. Should officials of the Office who are nationals of the Russian Federation be called up for military service, the Russian Federation shall, at the request of the Office, grant such temporary deferments in the call-up of such personnel as may be necessary to avoid interruption in the continuation of essential work of the Office. Dependents who are not nationals of the Russian Federation shall be permitted to take employment in the Russian Federation, and shall be promptly provided by the competent bodies with any clearances or documents that may be required for this purpose, in accordance with the legislation of the Russian Federation.
5. Privileges and immunities laid down in paragraphs 1(b), 1(d), 1(e), 1(f), 1(g), 1(h) and 3 of this Article shall not be applied to the officials of the Office or their dependants, who are nationals of the Russian Federation, or to persons permanently residing in the territory of the Russian Federation.

6. The Organization shall notify the Ministry of Foreign Affairs of the Russian Federation of the arrival and departure of all officials who are assigned to the Office, once they take up their duties and at the end of their designations, respectively.

ARTICLE 7: FINAL PROVISIONS

1. This Agreement may be amended by mutual consent of the Parties.
2. Any dispute regarding the interpretation or implementation of this Agreement shall be resolved by means of negotiations between the Parties.
3. This Agreement shall enter into force on the date of the last notification where the Parties notify each other in writing of the completion of the respective internal procedures required for the entry into force of this Agreement.
4. This Agreement shall be provisionally applied by the Parties upon the expiry of 60 days from the date of its signature.
5. This Agreement shall be valid for six years and shall be automatically renewed for additional six-year periods unless either Party sends a written notice of its intent to terminate this Agreement to the other Party at least three months prior to the expiration of initial or any subsequent validity period of this Agreement.
6. The termination of this Agreement shall not prejudice any rights or obligations accruing or incurred by either Party from the operation of this Agreement.

Done at Geneva on April 10, 2013, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the World Intellectual Property Organization

For the Government of the Russian Federation

Francis Gurry
Director General

Boris Simonov
Director General
Federal Service for Intellectual
Property (ROSPATENT)

[End of Annex II and of document]