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## **WIPO Coordination Committee**

**Seventy-Fifth (49<sup>th</sup> Ordinary) Session  
Geneva, September 24 to October 2, 2018**

### REPORT

*adopted by the WIPO Coordination Committee*

1. The WIPO Coordination Committee was concerned with the following items on the Consolidated Agenda (document A/58/1): 1, 2, 3, 4, 5, 6, 7, 8, 11(ii), 12, 27, 28, 29 and 30.
2. The reports on the said items, with the exception of items 7, 8, 27 and 28 are contained in the General Report (document A/58/11).
3. The report on items 7, 8, 27 and 28 are contained in the present document.
4. Ambassador Esmail Baghaei Hamaneh (Iran (Islamic Republic of)) was elected Chair of the WIPO Coordination Committee; Mrs. Agnieszka Hardej-Januszek (Poland) was elected Vice-Chair.

## ITEM 7 OF THE CONSOLIDATED AGENDA

### APPROVAL OF AGREEMENTS

5. Discussions were based on document WO/CC/75/1.
6. The Chair thanked the Member States for having elected him as the Chair of the WIPO Coordination Committee and invited the Legal Counsel to introduce the agenda item.
7. The Legal Counsel referred to document WO/CC/75/1 and recalled that, in accordance with Article 13(1) of the WIPO Convention, any general agreement entered into with a view to establishing working relations and cooperation with other intergovernmental organizations shall be concluded by the Director General after approval by the WIPO Coordination Committee. He then recalled that there were two such general agreements proposed to be approved by the WIPO Coordination Committee as reflected in the working document. The first agreement was a trilateral Memorandum of Understanding (MoU) between WIPO, the African Regional Intellectual Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI); and the second MoU was between WIPO and the West African Economic and Monetary Union (UEMOA).
  8. The WIPO Coordination Committee approved the Memorandum of Understanding between WIPO, ARIPO and OAPI; and the Memorandum of Understanding between WIPO and UEMOA, as set forth in Annexes I and II, respectively, of document WO/CC/75/1.

## ITEM 8 OF THE CONSOLIDATED AGENDA

### DRAFT AGENDAS FOR 2019 ORDINARY SESSIONS

9. Discussions were based on document A/58/4.
  10. The WIPO Coordination Committee adopted Annexes I and II; the Paris Union Executive Committee adopted Annex III; the Berne Union Executive Committee adopted Annex IV.

## ITEM 27 OF THE CONSOLIDATED AGENDA

### REPORTS ON STAFF MATTERS

#### (i) Report on Human Resources

11. Discussions were based on document WO/CC/75/INF/1.
12. The Secretariat introduced the "Annual Report on Human Resources", and stated that the report covered the period from July 2017 to June 2018 and it covered two main items, namely staff matters that were required to be reported to the WIPO Coordination Committee and other matters of interest to Member States. It added that, for the first time, a new Human Resources (HR) Brochure, entitled "Shaping WIPO's Future Workforce 2018", and containing data and statistics on the Organization's workforce, had been made available to Member States both in printed format and online, and that the Annual Report should be read in conjunction with this Brochure. The Secretariat highlighted that the workforce had remained stable, with its core component of regular staff representing around 70 per cent of the workforce, whilst its flexible component represented around 30 per cent, thus enabling the Organization to respond to fluctuations in the demand for its services. It also mentioned that productivity had continued to

increase in the delivery of WIPO services, as illustrated by the productivity in the PCT and Madrid Systems. Staff costs had decreased to 60 per cent of overall organizational expenditure in 2017, down from 65 per cent in 2016. The Secretariat added that the Organization remained committed to improving diversity and that 118 Member States were now represented in its workforce, whilst gender balance stood at 54 per cent women overall and 46 per cent men. It emphasized that the Organization continued to focus on increasing women representation at the managerial and senior levels. The Secretariat also mentioned that the Organization's outreach efforts in partnership with Member States were beginning to yield results, with an increase in the number of job applicants from unrepresented Member States and an increase in the ratio of female to male candidates. Moreover, 27 focal points had been designated in 18 countries and capacity in the HR Planning Section had been increased in order to intensify outreach to unrepresented Member States, and to provide support to candidates from these countries as recruitment was based on merit and job applicants must be able to compete in testing competency based interviews. The Secretariat underlined that the Organization ensured the promotion of a respectful and harmonious workplace for staff, free from harassment, through the establishment of relevant policies, conducting of training and learning to raise awareness, and through active engagement with staff. Such efforts had been undertaken in close coordination with United Nations (UN) system-wide initiatives to eliminate sexual harassment. It added that the Organization would be participating in an UN survey on this subject. The Secretariat mentioned that a staff well-being survey was conducted in 2017 in partnership with Webster University, with some 25 per cent of WIPO personnel having participated in the survey. 84 per cent of survey participants expressed job satisfaction. However, due note had been taken that some categories of personnel were prone to higher levels of stress and risk of burnout. The Secretariat added that it would respond to these survey findings with appropriate initiatives and that the results of the survey had been presented to all staff and had been made available on the WIPO Intranet. The Secretariat stated that important investments had been made in staff training and development and that a new learning tool provided staff with access to a large pool of training opportunities. Furthermore, the career development pilot for women at mid-and senior levels had been well received by participants for the second year in a row. This was also the case for the recently introduced mentoring program. Finally, it mentioned that the skills inventory was currently in a pilot phase and would soon assist the Organization to systematically identify talent and to close skills gaps. With respect to the WIPO Rewards and Recognition Program, which was first introduced in 2013, the Secretariat mentioned that it had again been upgraded in 2018 and that, in doing so, it had followed guidance provided by the International Civil Service Commission (ICSC). The program rewarded teams and individual staff who had achieved outstanding results reflecting WIPO's core values, which were "Delivering Excellence", "Working as One", "Acting Responsibly" and "Shaping the Future". The Secretariat stated that the program contained a mix of monetary and non-monetary rewards, that these annual rewards were based on the results of the Performance Management system and they were awarded to staff at the end of the annual Performance Management cycle. Close to 100 staff had received individual or team rewards, in the form of cash sums or training opportunities of their choice, for their meritorious performance in 2017. The Secretariat emphasized the fact that the Senior Management Team had played a key role in ensuring fairness and consistency across the Organization when making the decisions on who should receive the rewards. It added that that this formal recognition was greatly appreciated by staff and had encouraged individuals and teams to go the extra mile to achieve results and to drive innovation, which had already benefitted users of WIPO's Global IP Services. The Secretariat stated that, in addition to these rewards, an organizational performance reward was paid to all staff in 2018, which was subject to a number of criteria. This reward of 2000 Swiss francs per staff member, which represented 0.5 per cent of the biennial personnel costs, had been made in light of the excellent organizational business results at the end of the 2016/2017 biennium. It added that the totality of performance incentives paid by the Organization was well within the financial limits specified by the ICSC for the award of performance incentives. The Secretariat underlined that the payment of the organizational performance reward to all staff was not aimed

at undermining the recent ICSC decisions affecting staff in the Professional and higher categories in Geneva and stated that the ICSC post adjustment decisions had been fully implemented by the Organization. The Secretariat mentioned that one of the key pillars of WIPO's Human Resources Strategy was to be an attractive employer of choice and this not only included offering a competitive pay and benefits package, but also a conducive work environment with excellent facilities and staff friendly policies. To this end, new flexible working arrangements would be put in place in January 2019, providing an enabling environment for effective time management, which supported increased productivity whilst enhancing work-life balance for staff. Furthermore, the Secretariat stated that it had shared plans with the Program and Budget Committee (PBC) to establish a crèche for the children of WIPO staff in Geneva and that this would be an important added element in making the Organization an attractive workplace. The Secretariat stated that its efforts to remain an employer of choice for highly qualified staff from all parts of the world had been challenged in the last biennium by a series of deteriorations in conditions of service for staff in the Professional and higher categories. These deteriorations had been cumulative and had increased the Organization's difficulties in attracting talent in highly competitive employment markets. The Secretariat added that job offers had been turned down by applicants on occasions and that it was also aware that many highly skilled professionals did not even apply to vacancies in the Organization as better employment conditions were available in the private sector and with other international organizations. Moreover, the Organization faced more than 200 appeals from staff in the Professional and higher categories, as a result of this cumulative deterioration in conditions of service over the past years. The Secretariat emphasized that, for a global service provider which depended on highly skilled experts, this was a worrying development and one to which it needed to pay close attention so that the Organization could continue to deliver excellent and future-oriented IP services to its global clients in the years to come.

13. The Delegation of Lithuania, speaking on behalf of the Group of Central European and Baltic States (CEBS), thanked the Secretariat for having prepared and presented the Annual Report on Human Resources. The Group stated that HR was the backbone of the Organization and that its good administration was key to the effectiveness of the performance of the Organization. It was pleased to note the high performance of staff, with 20.8 per cent of employees rated as outstanding performers, a large majority, 75.4 per cent, of employees rated as effective performers, and only 0.1 per cent rated as underperformers. While not neglecting a merit based approach in the recruitment process that aimed to ensure efficiency, competence and integrity of staff, the Group stated that it paid great importance to ensuring balanced geographical representation in the Secretariat. In that regard, it commended the Human Resources Management Department (HRMD) for its outreach efforts towards unrepresented Member States and under represented regions, among which was the CEBS Group, in order to raise awareness about career opportunities in WIPO and stimulate the interest of high quality applicants. It was pleased to note that after such outreach missions, the number of applications from such countries had increased substantially and also noted the gradual improvement of geographical diversity in the Secretariat. The Group also conveyed its gratitude to the Secretariat for having organized a very informative presentation on employment issues for its Members during these series of meetings.

14. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for having prepared and presented the Annual Report on Human Resources. It welcomed the continuous improvement of this report, which had established its role as a key source of information for Member States. It stated that, taking into account the nature of this Organization, effective human resources were critical to achieve its mandate and objectives and that this fact was also reflected in the percentage of personnel costs in overall expenditure of this Organization. From this perspective, appropriate administration of HR was important in this Organization. The Group stated that it supported the training and outreach efforts to address sexual harassment. It voiced its concern on this issue in international organizations and mentioned that all forms of harassment, including sexual harassment, were unacceptable. The

Group encouraged the Secretariat to continue participating in the Chief Executives Board for Coordination (CEB) sexual harassment task force and to exercise zero tolerance towards harassment. The Group also understood that convergence of the recognition of WIPO as a global service provider in a fast changing environment and the demand of cost containment from Member States was very challenging. Moreover, as a member of the UN Common System, it also expected the Organization to closely follow the guidance of the ICSC on issues such as salary levels, compensation packages and reward programs to ensure consistency in compensation and benefits across UN organizations. In that respect, the Group took note that the WIPO Rewards and Recognition pilot program had matured over the last couple of years and had been implemented across the Organization. The Group requested a presentation by the Secretariat on WIPO's Rewards and Recognition Program at this session of the WIPO Coordination Committee, which, in its view, was part of broader conditions of employment of the Organization's staff. It also requested that any updates or changes to WIPO's Rewards and Recognition Program and its implementation be included in the relevant section of the Annual Report on Human Resources. With respect to recruitment, it reiterated the importance that it should be conducted on merit and on the highest standards of efficiency, competence and integrity, taking into account the very technical nature of WIPO and the reality of the services that WIPO provided. This overarching principle was essential in order to achieve the unique mandate of this Organization, even in the context of the UN. With this in mind, it also appreciated the ongoing efforts undertaken by the Secretariat towards greater geographical diversity of its staff and improved gender balance.

15. The Delegation of Morocco, speaking on behalf of the African Group, thanked the Secretariat for the preparation and presentation of the report, as well as for the Brochure, which it considered very useful. The Group noted the progress made in moving towards staff-related targets and commended the efforts made thus far, as they had made the Organization an exemplary employer in many respects. However, the Group wished to highlight the issue of geographical diversity and stated that the Group was firmly convinced of the fact that there were significant shortcomings when it came to equitable representation of the African region within the Secretariat. While the Group commended the initiatives taken by the Secretariat, including awareness-raising efforts seeking to improve geographical distribution of posts within the Secretariat, it nonetheless continued to believe that it was essential that all necessary steps be taken so that better representation could be achieved, especially for under-represented regions. In its view, this was important in terms of staffing numbers and in terms of levels of responsibility within the Secretariat. The Group mentioned that the Organization should ensure that it was in line with the objectives of equitable geographical distribution as provided for by Article 9 of the WIPO Convention. Therefore, the Group encouraged the Secretariat to do more in this regard and also with regard to gender equality. On the latter issue, the Group wished to ensure that the UN System action plan for gender equality and empowerment of women, which was launched in 2012, was fully implemented.

16. The Delegation of Iran (Islamic Republic of) congratulated the Chair on his election and expressed its appreciation to the Secretariat for the informative report on HR. It welcomed the continuous improvement of this report, which had established its role as a key source of information on HR for Member States. The Delegation stated that it attached great importance to the appropriate administration of HR, as it directly related to organizational efficiency and service orientation as well as to resilience to confront new developments promptly and adequately. Although it welcomed and recognized the efforts made by the Secretariat to narrow the existing imbalance in geographical representation, the Delegation was of the view that there was a need for further actions to ensure balanced geographical representation. With regard to a respectful and harmonious workplace, the Delegation highlighted the importance of providing such a workplace for all staff equally.

17. The Delegation of the United States of America expressed its support for the statement made by the Delegation of Switzerland on behalf of Group B. The Delegation appreciated the informative report and was pleased that WIPO continued to make progress in the areas of gender parity and staff development. The Delegation was pleased that the Secretariat was implementing measures to combat sexual harassment and stated that it was concerned by the pervasive problem of harassment in the UN System, including sexual harassment. Harassment in all its forms undermined the mission of UN organizations and compromised the well-being of staff members. The Delegation took note that there were eight internal justice cases related to harassment, whilst the Internal Oversight Division (IOD) had reported that there were three harassment cases in the same period. The Delegation wished to know the status of these cases, whether they were related to appeals of administrative decisions and how many cases remained pending out of the total number of internal justice cases filed since 2014. It also voiced its concerns about financial rewards being awarded to staff other than for individual merit or performance. The Delegation was of the view that, as provided for in WIPO's Rewards and Recognition Program, a reward should only be awarded to staff who were outstanding performers. Otherwise, awards would begin to lose their significance and could be perceived as an entitlement, which was contrary to the fundamental principle of rewarding individual performance. The Delegation also believed that the Organizational Performance Reward should only be granted on an exceptional basis and that Member States, through the PBC or the WIPO Coordination Committee, should be advised of the financial performance of the Organization and given clear justifications for the reward before it was awarded to staff members. The Delegation further stated that the financial implications and significance of this reward required more transparency from the Secretariat and that it would appreciate more information on WIPO's Rewards and Recognition Program and its funding. The Delegation, therefore, proposed a decision on this item, which it then proceeded to read to the Committee as follows: "The WIPO Coordination Committee took note of WIPO's Rewards and Recognition Program and the discussion thereon, and decided to request the Secretariat to report on the implementation of WIPO's Rewards and Recognition Program at the seventy-sixth session of the Coordination Committee".

18. The Chair noted that there were no other delegations requesting the floor. He thanked the delegations for their comments and statements and stated that they would be duly reflected in the report of the session.

19. Upon the completion of Agenda Item 27(ii), the Delegation of the United States of America requested the floor to state that it had proposed a decision paragraph on Agenda Item 27(i) and that it would be happy to also provide the proposed decision in writing. The Chair mentioned that that agenda item was closed and that the proposal made by the Delegation of the United States of America would be duly recorded and reflected in the report. The Delegation of the United States of America stated that it believed that this item had remained open as the decision had not been endorsed, and that other delegations shared this view.

20. The Delegation of Canada stated that it shared the understanding of the Delegation of the United States of America with regards to the process and that it had understood that the item had remained open. The Delegation took the opportunity to express its support for the proposed decision language, although it did realize that this was an agenda item for information purposes only.

21. The Delegation of Sweden expressed its support for the proposal made by Delegation of the United States of America and agreed with the understanding of the Delegation of Canada on the procedural aspects of this item.

22. The Delegation of Germany stated that it shared the views expressed by the Delegations of the United States of America, Canada and Sweden, and requested for the Chair's indulgence to properly consider the proposal of the Delegation of the United States of America.

23. The Delegation of the United Kingdom aligned itself with the statement made by the Delegation of Switzerland on behalf of Group B and expressed its support for the proposal made by the Delegation of the United States of America relating to WIPO's Rewards and Recognition Program. The Delegation kindly requested the Chair and the WIPO Coordination Committee to consider the decision as proposed by the Delegation of the United States of America.

24. The Delegation of France expressed its support for the statement made by the Delegation of Switzerland on behalf of Group B as well as for the statements made by the Delegations of Canada, Sweden, Germany and the United Kingdom. It believed that the item was still under discussion and it expressed its support for the proposal put forward by the Delegation of the United States of America.

25. The Delegation of the Netherlands expressed its support for the statements made by the previous delegations on this topic and was of the view that the proposed decision should be considered as the agenda item had not been concluded.

26. Upon the request of the Chair, the Delegation of the United States of America proceeded to repeat the proposed decision to the WIPO Coordination Committee.

27. The Delegation of Japan requested the floor to express its support for the proposed decision of the Delegation of the United States of America.

28. The Chair stated that there were number of delegations which supported the proposed decision made by the Delegation of the United States of America, and as there was no objection, the WIPO Coordination Committee agreed with and decided on the proposal.

29. The WIPO Coordination Committee took note of WIPO's Rewards and Recognition program and the discussion thereon, and decided to request the Secretariat to report on the implementation of the Rewards and Recognition program at the seventy-sixth session of the Coordination Committee.

(ii) Report by the Ethics Office

30. Discussions were based on document WO/CC/75/INF/2.

31. The Chief Ethics Officer introduced the "Annual Report by the Ethics Office", which presented its activities for the year 2017. The Chief Ethics Officer referred to the Convention Establishing the World Intellectual Property Organization, which underlined the importance for the Organization of securing the highest standards of efficiency, competence and integrity, and that the establishment at WIPO of a comprehensive ethics and integrity system and of the Ethics Office followed from this. The Chief Ethics Officer enjoyed the independence required for the effective discharge of its functions and was not part of operational management. The Ethics Office dealt with four main areas of activity, namely, undertaking promotional activities, particularly training and awareness building activities, providing confidential advice to senior management, managers and all staff members, standard-setting and policy development, and the Office implemented policies assigned to it. With respect to promotional activities, the Chief Ethics Officer mentioned that there had been mandatory training on ethics and integrity for all staff at every level of the Organization since the launch of the WIPO Ethics and Integrity policy in 2012. In 2017, a new awareness raising approach was introduced, combining an academic approach to ethics with private sector practice, by invited speakers from different cultural backgrounds, to trigger open discussions on codes of ethics and their practical implementation. Another new dimension was the organization of a high-level lecture on Ethics by the international renowned ethicist, Professor Onora O'Neill (United Kingdom), recipient of multiple national and international honors and distinctions for her achievements in "Ethics and Philosophy". Around 150 WIPO staff participated in the event. Two out of these three guest

speakers were female. In line with best practice in both the private and public sectors, special attention was placed on “*the mood in the middle*”: Four dedicated briefings for managers and senior staff had been organized. The Ethics Office also presented its activities in introductory courses during the Induction week for new staff at all levels, including managers. In the courses, the Ethics Office’s mandate, the services it provides to staff, and the availability of its 24/7 helpline, were explained. In 2017, 317 employees participated in ethics training and awareness activities. On-line surveys indicated that 92 per cent of respondents rated the course as having increased their understanding. Regarding confidential advice to all staff, the Ethics Office received 40 requests for advice in 2017. Most of the requests were on outside activities, employment related matters, conflicts of interest, declarations of interests, and on gifts and/or hospitality. In the area of standard-setting and policy development, a revised *Policy on Protection Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations* was promulgated and took effect on September 29, 2017. A new Policy on Financial Disclosure and Declaration of Interests which applies to senior staff and to other designated categories of staff was also promulgated in 2017. This Policy strives to achieve an appropriate balance between the need for information and staff members’ right to privacy, while taking into account the risk management framework, the internal control systems of the Secretariat, and best practices on the issue. The first filing exercise, with review of submissions by an external reviewer, was scheduled for 2018, and had meanwhile been implemented successfully. On implementation of policies assigned to the Ethics Office, the Chief Ethics Officer mentioned that the Office received complaints of retaliation and conducted preliminary reviews to determine whether a complainant had engaged in a protected activity under the Policy to Protect against Retaliation for Cooperating in an Oversight Activity or Reporting Misconduct or other Wrongdoing (the PaR policy). Based on its preliminary review of a complaint, the Ethics Office determined whether *prima facie* there was a case of retaliation requiring adequate protection of the complainant concerned. In 2017, the Ethics Office concluded preliminary reviews of two claims for protection against retaliation. The Ethics Office determined that these cases did not present *prima facie* cases of retaliation. The Ethics Office was also responsible for the implementation of the declaration of interest program for WIPO’s staff members at the level of D1 and above, and a limited number of other specific categories. The Chief Ethics Officer stated that a 100 per cent rate of compliance with IPSAS disclosure requirements concerning related party transactions was achieved for the 2017 reporting period. Some other areas of activity of the Ethics Office in 2017 were the Ethics Office’s active engagement with the Independent Advisory Oversight Committee (IAOC). The Ethics Office strived to respond to the requests of the IAOC, mindful of its own mandate as well as of the need for the vital prerequisites for the functioning and operation of an Ethics Office, namely independence, confidentiality and impartiality. The Ethics Office cooperated with system-wide surveys and initiatives, such as the United Nations Joint Inspection Unit’s (JIU) reviews of “Mechanisms and policies addressing conflicts of interest in the United Nations system”, and of “Whistleblower policies and practices in United Nations system organizations”. The Chief Ethics Officer furthermore reported the Office’s efforts for harmonization of best practices within the UN common system, to which end the office actively engaged with the Ethics Network of Multilateral Organizations (ENMO). The Network aims to promote system wide collaboration on ethics related issues within the UN system, and provides a structure for the exchange of ethics policies and practices.

32. The Delegation of Switzerland, speaking on behalf of Group B, expressed its appreciation for the annual report by the Ethics Office, and for the ethics related training and outreach activities undertaken by the Office in the past year. Group B recognized the significant role the Ethics Office played in increasing organizational awareness of ethics related issues through training and invited the Ethics Officer to describe its role in WIPO’s strategy to combat harassment including sexual harassment. The Group wanted to know if the Ethics Office was also involved in training hereon, which was currently being developed. The Group welcomed the revised policy to protect against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations and the policy on financial disclosure and declaration of

interests. The Group believed that if employees felt comfortable reporting misconduct without fear of retaliation, an organization could address wrongdoing before it became an organizational problem. Effectively implementing strong ethics policies in addition to conducting outreach and ethics related training were critical to fostering an ethical culture in the Organization. The Group noted the recent JIU reviews on mechanisms and policies addressing conflict of interest in the UN system and on whistleblower policies and practices in UN system organizations, and looked forward to the implementation of the recommendations by the Secretariat and the Ethics Office.

33. The Delegation of the United States of America stated that it strongly supported the mission of the ethics function at international organizations and expressed appreciation for the activities undertaken by WIPO's Ethics Office in 2017. The Delegation was pleased to hear about the high-level lecture on ethics for communication organized by the Ethics Office and of its plans to continue these types of events, as well as about the new mandatory online ethics and integrity course released in 2017. The Delegation asked how often staff would be required to take refresher trainings. The Delegation recognized with appreciation the four dedicated briefings held for managers and senior staff and wanted to know how they were tailored for managers and if there were plans to develop online courses specifically tailored to these staff. The Delegation believed that international organizations needed robust financial disclosure and declaration of interest policies and appreciated that the first filing exercise in 2018 under the new policy had taken place. In noting an overall increase in the request for advice compared to 2016 and 2015, the Delegation asked if this increase was due to training and outreach efforts. What were the Ethics Office's priorities for 2018-19, did the Office have any observations or recommendations to management, and had any notable ethics issues arisen during the reporting period. The Delegation welcomed the implementation of the policy to protect against retaliation and looked forward to the promulgation of the terms of reference of the Ethics Office. The Delegation was a strong proponent of whistleblower protections in order to facilitate an ethical culture. It recognized the importance of ethics related policies and requested that these policies as well as future ethics policies be shared with Member States in the spirit of transparency and to strengthen its understanding of the ethics function. Regarding the recently released UN JIU report on whistleblower policies and practices in UN system organizations, the Delegation looked forward to the implementation of the recommendations from this review and would appreciate updates from the Ethics Office in next year's report on the implementation status. The Delegation noted the JIU's recommendation that whistleblower protection policies be publicly accessible. The Delegation underscored the importance of ensuring that the ethics, internal oversight, and ombudsman functions were independent and said that the JIU had recommended that an annual report of the Ombudsperson be shared with Member States. The Delegation supported this recommendation, believing that an annual ombudsperson report would be a valuable addition to the WIPO Coordination Committee's agenda. The Delegation noted that the World Health Organization (WHO) had recently implemented this recommendation and that their Ombudsperson report contained insightful information regarding staff dynamics and potential organizational issues. The Delegation encouraged the Ethics Office's continued engagement with the IAOC and hoped that this office, the IOD, the IAOC and the Ombudsperson would have open lines of communication, working together when possible, to strengthen the oversight and Ethics framework of the organization.

34. The Delegation of Brazil thanked the Secretariat for the preparation of the document and the Chief Ethics Officer for the presentation of its Annual Report. The Delegation recognized the contribution of the Ethics Office in ensuring that WIPO complied with the high standards of ethics. To achieve this, the independence of the Ethics Office was a fundamental requirement and the Delegation was glad to hear that this had been ensured in the past year. The Delegation referred to paragraph 27 of the Annual Report by the Ethics Office, regarding declaration of interests. In that respect, the report mentioned that, pursuant to WIPO's Financial Regulations and Rules, the members of the IAOC should sign a statement of disclosure of interests. The report mentioned that the Ethics Office exchanged communications with the

Chair of the IAOC and did not receive further information. The Delegation of Brazil requested the Chief Ethics Officer to provide additional information on this matter.

35. The Delegation of Australia supported good governance across the UN system and highly valued the important role of ethics functions, including at WIPO, to enhance the culture of ethics and to strengthen ethical leadership through its awareness raising and training activities, as outlined in the Office's Annual Report. The Delegation encouraged the Ethics Office and the IAOC to work together as appropriate to support best practice. The Delegation was pleased to see in the recently released JIU report that WIPO's protection against retaliation policy was leading the field across the UN system and strongly supported WIPO to continue to pursue best practices not only with respect to policies but also implementation of these policies. The Delegation encouraged WIPO to consider implementing any relevant recommendations from the JIU report which included making publicly available WIPO's protection against retaliation policy.

36. The Chief Ethics Office subsequently thanked all delegations for their words of appreciation and encouragement, and mentioned the Ethics Office's continuing availability to engage bilaterally with Member States. Regarding the specific question from the Delegation of the United States of America on training, the feedback and surveys would form the foundation thereof. The Ethics Office collaborated closely with HRMD in designing ethics training for staff. On the question of the Delegation of Brazil, she responded that the Ethics Office's interaction with the IAOC on the requirement of disclosure of interests by members of the IAOC was faithfully reflected in the report, as was the response given by the IAOC in that respect.

## ITEM 28 OF THE CONSOLIDATED AGENDA

### AMENDMENTS TO STAFF REGULATIONS AND RULES

37. Discussions were based on document WO/CC/75/2.

38. The Secretariat stated that a limited number of amendments to the Staff Regulations and Rules were being presented to the WIPO Coordination Committee for approval and for notification, respectively. The amendments were being presented as part of the ongoing review of the Staff Regulations and Rules, which would allow WIPO to maintain a sound regulatory framework that was adapted to and supported the changing needs and priorities of the Organization while ensuring alignment with best practices in the UN Common System. The Secretariat mentioned that it was first submitting amendments to eight staff regulations for approval by the WIPO Coordination Committee and that Annex I of document WO/CC/75/2 provided details of the current and the proposed new text as well as the purpose of the amendment. If approved, these amendments would take effect on January 1, 2019. The Secretariat stated that there were some minor changes to the following Regulations: Regulation 3.7 – Long-Service Step: Minor changes were being proposed to ensure consistency with the practice in other organizations of the UN Common System and requirements established by the ICSC; Regulation 3.12 – Overtime: Minor changes were being proposed to specify that the conditions for overtime are prescribed by the Director General, rather than the Staff Rules; Regulation 4.11 – Medical Examination: Minor changes were being proposed, one of which was required to implement an audit recommendation; and Regulation 12.5 – Transitional Measures was no longer needed and could be deleted. The Secretariat then introduced the amendments which required more substantive changes to Staff Regulations: Regulation 1.6 would make the provisions on limitations on activities and interests outside the International Bureau more specific; Regulation 3.22 – Submission of Claims and Recovery of Overpayments: The proposed changes were aimed at addressing some unclear provisions regarding the recovery of overpayments and to facilitate effective recovery in case of undue payments to a staff member; Regulation 3.14 – Education Grant: It was being proposed

to allow the payment of the education grant to temporary staff members in exceptional cases, where this was in the interests of WIPO; and Regulation 4.16 – Temporary Appointments: It was being proposed to allow the Director General to extend the maximum cumulative length of a temporary appointment from two to three years, in exceptional circumstances. The Secretariat also mentioned that a number of Staff Rules would need modification effective January 1, 2019. The majority of these Staff Rule changes were related to the new time management system, which would come into effect in January 2019. Furthermore, some Staff Rule modifications had already been implemented between July 1, 2017 and June 30, 2018. The Secretariat clarified that the details of all Staff Rule modifications were contained in Annex II of document WO/CC/75/2.

39. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for the presentation of the amendments to the Staff Regulations and Rules. Regarding the proposed amendment for Regulation 4.16 on Temporary Appointments and 3.14 on Education Grant, the Group wished to underscore the importance of stability in the workforce. In its view, too many temporary appointments could lead to high staff turnover and corresponding loss of knowledge and thus inefficiencies. The Group pointed out that it had some concerns regarding the proposed amendment, which raised the limit for temporary appointments from two to three years, as well as the amendment creating the possibility to provide an education grant to temporary staff in exceptional cases. The amendment to Regulation 3.14 posed questions in terms of equality of treatment within a given staff category. Against this backdrop, the Group stated that it accepted most of the proposed amendments, but could not accept the proposed amendment to Regulation 3.14 as it did not align with the ICSC's decision on education grant and the UN Common System best practice. The Group also wished to ensure transparency regarding Regulation 4.16, which would allow Member States to better monitor the use of such exceptional measures. It therefore requested the Secretariat to include in its next annual report, as well as subsequent ones, detailed information on the number of cases under Regulations 4.16 and the rationale for the use of these exceptional measures. In its view, with this information, which the Secretariat would provide to the PBC, Member States would be able to assess, possibly with the assistance of the IAOC, whether additional checks and balances would be needed regarding such discretionary measures. The Group also took note that in the 2018 version of the Staff Regulations and Rules a footnote relating to Regulation 3.1 had been removed and that other elements of Regulation 3.1 had been amended in 2016. The Group believed that the footnote was deleted in this process but that it had not been discussed at the WIPO Coordination Committee. The Group therefore proposed the reinstatement of the footnote to Regulation 3.1, which read: "Explanatory notes: these salaries correspond to those in force within the United Nations Common System. They may be adjusted by the Director General in accordance with any adjustments approved within the United Nations Common System. This Regulation was amended with effect from January 1, 2016. Please refer to Information Circular No. 30/2015". The Group also highlighted that the proposed amendments were presented less than three weeks before the Assemblies. It requested the Secretariat to ensure that future proposals for amendments to Staff Regulations and Rules were made available on time.

40. In response to the statement made by Group B, the Director General clarified that the Secretariat had no difficulty in meeting the requests made by Group B. It understood that there was an objection to one proposed change and that there was discomfort with another proposed change, and asked the Delegation of Switzerland to kindly provide further clarifications. The Secretariat understood that the objections made by Group B were to the possibility of an exception to grant an education allowance for temporary staff members and to the possibility, in exceptional circumstances, of extending the maximum length of service of a temporary staff member from two to three years. The Director General added that the Secretariat had no difficulty whatsoever in reinstating the footnotes relating to Regulation 3.1. In relation to the education grant in exceptional circumstances, he stated that the Secretariat could drop this proposed amendment. However, he added that it stood somewhat in contradiction to the earlier

statement made by the Delegation of Switzerland about the need to find a balance between the specific mission of the Organization as a technical agency which sometimes needed to compete under market conditions, and the Organization's adherence to the common system. In some cases, it was impossible for the Organization to provide competition. The Director General mentioned that this was the case in the field of artificial intelligence for example, as demonstrated in a recent survey by one of the leading consultancy firms in the field of IT, and in which field the number of specialists worldwide was extremely limited. The Director General stated that the Secretariat had attempted to bring in one of the consultants with whom it was working with in this field but that a leading company had offered the same person a salary 10 times the amount that the Organization could offer. In this situation, the Organization just could not compete. Hence, the proposal that, very exceptionally, there might be circumstances in which the nature of employment was such that the Organization would need to provide an incentive. The Director General also mentioned that this was a general problem that was beyond this particular proposed amendment, and one that the whole UN System was experiencing, in particular the specialized agencies. He reiterated that the Secretariat had no difficulty in dropping the proposed amendment if that was how Member States viewed the matter. The Director General added that this proposed amendment was more a desire to try to address the situation, which would become a problem in the future, of trying to provide a competitive employment environment in certain specialized areas where the market was far ahead of the public sector.

41. The Delegation of the Russian Federation expressed its gratitude to the Secretariat for the document that had been submitted. Although the Delegation was ready to support most of the amendments that were being proposed, it had a number of questions to which it wished to receive detailed written answers. On the proposed amendment to Regulation 3.14 to allow the payment of an education grant to temporary staff members, the Delegation wished to know to what extent this proposal was in line with the practice that had been adopted within the UN Common System. It understood that payments and benefits, including education grant, were paid to Professional and the higher categories in accordance with recommendations from the ICSC and that such benefits were not intended to be paid to staff on temporary appointments. The Delegation also stated that this proposal would have budgetary repercussions and queried the Secretariat on the assessment of those repercussions and on the funding sources. It mentioned that, as the proposed measure had financial repercussions, it would be appropriate for this question to be initially considered within the PBC. Furthermore, the Delegation stated that it would be useful to know how the Secretariat intended to decide which temporary staff would get an education grant and which would not, noting that this step ran the risk of introducing inequalities among staff members, leading to a situation where some would be better off than others. It was of the view that this could potentially lead to unhealthy competition amongst staff members and may also lay the grounds for legal action. With respect to the proposed amendment to Regulation 4.16 on the extension of the length of temporary appointments, the Delegation mentioned that many of the issues raised on the proposed amendment to Regulation 3.14 could also legitimately be made about this proposed amendment. It believed that extending the length of temporary appointments could complicate issues relating to ensuring equitable geographical representation within the Organization. The Delegation repeated that it would be very grateful to receive detailed responses in writing from the Secretariat on the points raised, which would enable it to look at the situation in greater depth and to determine its position on the essence of the proposed amendments. It also hoped that it would be able to cooperate fully with other delegations and the Secretariat on these issues.

42. The Delegation of the United States of America expressed its support for the statement made by the Delegation of Switzerland on behalf of Group B and appreciated the positive measures taken by the Secretariat to improve and clarify the Staff Regulations and Rules. With respect to the amendment to Regulation 4.16, which would allow the Director General to extend a temporary appointment to three years, the Delegation requested the Secretariat to provide the

reason for this change and examples of when this type of extension would be necessary. It also requested the reasoning for the proposed change in Regulation 3.12 regarding overtime and, similar to its query with respect to Regulation 4.16, in terms of examples.

43. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Director General for his feedback on its statement regarding Regulations 4.16 and 3.1 and confirmed that the Secretariat's understanding was correct. The Group stated that it could not endorse the proposed amendment to Regulation 3.14 on education grant, but that it could accept the proposed amendment to Regulation 4.16 on the extension on temporary appointments. It also reiterated its request for the Secretariat to include in its next annual report, and subsequent ones, detailed information on the number of cases relating to the implementation of this Regulation as well as the rationale for the use of the exception, and that this data should be provided for information at the PBC. This would enable Member States to assess whether additional checks and balances would be needed.

44. The Director General thanked the Delegation of Switzerland for the confirmation, and the Delegations of the Russian Federation and the United States of America for their questions. With respect to the queries from the Delegation of the Russian Federation, the Director General clarified that the proposed amendment to Regulation 3.14 on the education grant had been withdrawn. With respect to Regulation 4.16 on the extension of temporary appointments, he stated that the Secretariat had no firm position on the matter and that it would be pleased to defer to the guidance provided by the Member States in this regard. He took the opportunity to highlight the sort of circumstances that the Secretariat had in mind when proposing this amendment, for example, when the nature of the function being temporarily performed required an additional period of time beyond the two years for a particular temporary employee, for a particular program which had not been completed. He added that the Secretariat was simply looking for some additional flexibility in such cases. In response to a request from the Delegation of Switzerland, the Director General said that the Secretariat would be pleased to provide precise information on the circumstances in which this may have been used in the preceding year, on its Annual Human Resources Report. The Director General also mentioned that the Secretariat understood the desire to ensure that the Organization did not get itself into a position that it had once been in some 10 years ago, in which some three hundred persons on the workforce were in temporary positions. That situation had since been resolved with temporary contracts now better managed. In this respect, the Secretariat recognized the discomfort of Member States in increasing the number of temporary staff. Summing up the discussions, the Director General indicated that there was a basis to go forward with the proposal on extending a temporary appointment from two years to a maximum of three years, in exceptional circumstances, noting that the Secretariat would report on the number of cases for the preceding year in the Annual Human Resources Report. With respect to the query by the Delegation of the United States of America on the proposed amendment to Regulation 3.12, the Secretariat confirmed that this was a reflection of the time management rules that would be affected by the new system being put into place. Furthermore, it stated that operational details relating to overtime had been removed from the Staff Rules and that these proposed changes would be reflected in an Office Instruction.

45. The Delegation of the Russian Federation expressed its appreciation to the Director General for the clarifications and mentioned that it now understood that the proposed amendment to Regulation 3.14 had been withdrawn. With respect to the proposed amendment to Regulation 4.16, the Delegation stated that it was willing to follow the consensus on the matter.

46. The WIPO Coordination Committee:

(i) approved the amendments to the Staff Regulations as provided in Annex I of document WO/CC/75/2, to be effective as from January 1, 2019, with the exception of the proposed amendment to Staff Regulation 3.14, which was withdrawn by the Secretariat at the request of the Committee.

(ii) took note of the amendments to the Staff Rules.

(a) as provided in Annex II of document WO/CC/75/2, which will be effective as from January 1, 2019; and

(b) as provided in Annex III of the same document, which were implemented between July 1, 2017, and June 30, 2018.

(iii) requested the Secretariat to include in its Annual Report on Human Resources information on any cases in which an extension of a temporary appointment beyond two years has been granted in the period covered by the report.

[Annex<sup>1</sup> follows]

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<sup>1</sup> It is customary practice that, on request, the Chair allows a representative of the WIPO Staff Council to address members of the WIPO Coordination Committee after the conclusion of its agenda in order to provide the perspectives of staff. The Chair informed that he would follow the precedent set forth with the agreement of the Member States, and so he proceeded. The statement of the representative of the Staff Council is annexed.

WIPO Staff Council Intervention before the  
Coordination Committee of Member States  
World Intellectual Property Organization  
September 28, 2018; Geneva, Switzerland

Mr. Chairman, Distinguished Delegates, Ladies and Gentlemen,

It is a great honor to address the Coordination Committee this morning on behalf of the World Intellectual Property Organization Staff Council.

My name is Tom Bombelles, and as I said last year, while I am the one speaking today, I speak for all seven of the Members of the WSC. We are a collegial group, and we rotate the various offices of the Council among ourselves, based on availability of time, interest, and secondment from our official duties.

We also note that part of the progress the staff has made in the last year is the establishment of a nascent Staff Union, and they join us in these remarks today.

Last year, I spent some time introducing the Council to you, as we were a relatively new group created after a Staff petition and a lengthy internal review process, so there is no need to go into that background now.

I will just note very briefly that overall, we as a group believe, and we think the entire staff here in the Secretariat agree, that we have made significant progress in restoring positive, constructive and professional relations with the Administration. Our goal is to be as effective as possible in representing Staff interests to the senior management of the Organization, and we hope we have done so. We are not afraid to disagree with policies proposed by the Administration. Importantly, we are not afraid to agree, either. We are comfortable in our own skins.

One measure of our success is that in 2018, after a one-year transitional term, we were all re-elected to a three-year term.

Well, you may question the wisdom behind our decision to stand again for election, and each of us has their own reasons why, but some of our motivations we have in common. Foremost among them is that we do appreciate the privilege of being international civil servants with this Organization, and we are motivated to give something back. And we hope we are.

This brings me to the most important and difficult subject to raise with you today. That is the negative effects of the constant cost-cutting pressure that you, the Member States, continue to impose on us.

Last year, I listed a number of cost-saving measures that have largely been imposed on the Staff in the name of harmonizing with other UN agencies and the common system.

First and foremost, the common system is a “floor, not a ceiling.” That is to say there is nothing in the UN rules and procedures that prevents WIPO from providing staff benefits that are more advantageous than the minimum mandated by the Common System.

Obviously, the key issue at hand, the “elephant in the room” here is the change in the post – adjustment multiplier by the International Civil Service Commission (CISC) that led to an almost 8% reduction in take-home pay for the professional staff in Geneva. As a point of reference, 8% equals one month salary. This places significant hardship on many staff, particularly those with young families, school fees, mortgages, etc.

I won't go into detail about why we think the ICSC's calculations were wrong, etc. etc., but I do want you to know that WIPO Staff, in a comprehensive effort organized by us, the WIPO Staff Council, are using legal recourse to challenge the ICSC's decision. In fact, thousands of international civil servants in Geneva have decided to lodge complaints with the Administrative Tribunal of the International Labour Organization against the agencies and organizations that employ them. We are confident that a favorable decision by the Administrative Tribunal will be handed down in the first half of 2019.

More importantly for today is that the WIPO Staff want every Member State delegate to hear how disappointed we are that so many Member States have put pressure on the WIPO Administration to implement the ICSC decision. Whether you believe that the justification of the common system mandates uniform working conditions, we would like you to understand from us that we do not agree that the common system is an inflexible, unitary standard.

This is particularly so in the case of WIPO, for at least several key reasons. For example, given our professional field and necessary competencies, we compete for human resources with many private sector employers and other multilateral and inter-governmental agencies that provide higher salaries than the UN system.

Even more to the point, and as you all know, WIPO has a healthy financial situation, with resources that do not come from the Member States. Our operating model, in fact, is closer to the private sector than the multilateral system, because we provide services for which users pay fees. Obviously, our most successful service is the Patent Cooperation Treaty, which provides about three-quarters of our budget.

Summarizing from the Director General's report to the Assemblies, the Organization has continued to perform at a very high level. For example, applications to our services (patents, trademarks, designs, etc.) continue to increase. The treaties administered by the Organization are adding members at a steady rate. You, the Member States, request and receive cooperation and participation in our services, programs and the capacity-building that we provide.

Plus, there are many new challenges that are on the horizon or are already here. For example, how the phenomenon of artificial intelligence will affect the mandate of the Organization, the world of intellectual property and in fact the way we live, is at this point very much unknown. All of this is just touches on the surface of the exciting and challenging environment in which we come to work every day.

The fact that intellectual property is so central to the global economy is also reflected in our financial results. As you know from the Director General's Report to this year's Assemblies, we concluded the last biennium with a surplus of almost 56 million Swiss francs.

In short, there is no financial reason to impose strict and damaging cost controls on the staff.

Given these program performance and financial results, I often find myself asking:

WIPO meets all its financial and program targets;

- We have a healthy operating revenue stream, with growth and annual surpluses, therefore,
- Where on earth is there an organization with those metrics that responds by cutting staff salaries?
- The answer I am afraid, is only here, and only because you the Member States are forcing it upon us.

On behalf of all the hard-working, productive staff members at WIPO, I urge you to reconsider the constant pressure that results in a lower quality of work life for us.

Thank you for the opportunity to address you today.

[End of Annex and of document]