

WIPO



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GENEVA

WORLD INTELLECTUAL PROPERTY ORGANIZATION

COORDINATION COMMITTEE

Thirty-First Session (24th Ordinary)
Geneva, September 20 to 29, 1993

STAFF MATTERS

(SECOND SUPPLEMENT TO DOCUMENT WO/CC/XXXI/1)

Memorandum of the Director General

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I. SALARIES FOR THE GENERAL SERVICE CATEGORY

1. Under Article 12.1 of its Statute, the International Civil Service Commission, hereinafter referred to as "the ICSC," has responsibility for establishing the relevant facts for, and making recommendations as to, the salary scales of staff in the General Service category at the headquarters duty stations of the organizations of the United Nations "common system," including Geneva. For that purpose, the ICSC conducts periodic surveys (at intervals of five years) of the salaries paid by local employers and, as a result of such surveys, draws up salary scales which it recommends for implementation by the United Nations and the other organizations applying the common system. The surveys are conducted and the salary scales established on the basis of a methodology determined by the ICSC itself.
2. The latest such survey in Geneva was conducted from November 1990 to January 1991 and resulted in a revised salary scale which, upon the recommendation of the ICSC, was introduced by the United Nations and all other organizations applying the common system in Geneva, with effect from January 1, 1991. As far as WIPO is concerned, the said salary scale was provisionally (pending the decision of the WIPO Coordination Committee) applied by the Director General as from January 1, 1991. The same salary scale was later approved by the WIPO Coordination Committee at its September-October 1991 session (see document WO/CC/XXVIII/7, paragraph 46) although, at the same session--that is, roughly two years ago--the Director General informed the WIPO Coordination Committee that a number of WIPO staff members had initiated an internal appeal procedure against the said salary scale on the grounds that, in reaching its recommendation, the ICSC had not correctly applied its own methodology (see document WO/CC/XXVIII/2, paragraphs 27 to 30).
3. After exhaustion of the said internal appeal procedure, five staff members lodged a complaint with the Administrative Tribunal of the International Labour Organization (hereinafter referred to as "the Tribunal").
4. The complainants contended, inter alia, that in determining the effect of the above-mentioned survey, the ICSC had acted in breach of its own methodology, because by including, in its calculation, seniority or longevity steps granted by two Geneva-based organizations (other than WIPO) beyond the maximum of the common system salary scale, the ICSC compared the local salaries with a higher amount than it should have compared it with and thereby reduced the percentage by which it ought to have raised the salaries paid by the common system organizations. In other words, two Geneva-based organizations have extra within-grade steps that are not provided for in the common system and the ICSC--the guardian of the common system--took the resulting higher figures (condemned by the ICSC!) into account in its calculations.
5. The Tribunal delivered its judgement (No. 1265) on July 14, 1993, and found that the complainants were right in objecting to the counting of extra within-grade step increments beyond the maximum of the common system salary scale as it was "unfair to count benefits improperly granted to the staff of

some organisations and so artificially inflate the comparative figures of pay of staff in organisations like WIPO that do abide by the rules of the system." As a result, the Tribunal:

(i) set aside as from January 1, 1991, the decisions determining the complainants' pay according to the salary scale applicable to WIPO General Service staff insofar as the extra-within grade steps granted by other organizations in Geneva to their staff counted in reckoning that scale; and

(ii) decided that WIPO should "draw up a revised scale that discounts those steps for the sake of comparison and pay the complainants the difference between the present figure and the figure on the revised scale" and pay interest at the rate of eight per cent a year on arrears due up to the date of the implementation of the revised salary scale.

6. In addition, WIPO had to pay 5,000 Swiss francs in costs to each of the five complainant staff members.

7. The effect of the judgement is that not only the General Service salary scale that came into effect on January 1, 1991, but also the General Service salary scales that came into effect on January 1, 1992 (see document WO/CC/XXX/2, paragraphs 9 and 10) and on January 1, 1993 (see document WO/CC/XXXI/1, paragraphs 9 and 10) must be revised, since the latter two are based on the January 1, 1991, salary scale. Pensionable remuneration and pension contributions of General Service staff, which are derived from the salary scales, as well as language allowances, which are based on the January 1, 1991, salary scale, also require adjustment, with retroactive effect from January 1, 1991.

8. The Tribunal did not determine the percentage of the adjustment to be made to the January 1, 1991, salary scale.

9. On July 27, 1993, the Director General wrote to the Chairman of the ICSC to request (i) the necessary information on the applicable methodology (as in force at the time of the 1990-1991 Geneva General Service salary survey) to enable a determination to be made of the adjustment to be applied to the 1991 General Service salary scale; (ii) assistance in drawing up revised salary scales for 1991, 1992 and 1993; and (iii) guidance regarding the adjustment of the language allowance for General Service staff as of January 1, 1991.

10. After consultations with the United Nations and the other Geneva-based organizations, the ICSC wrote to the Director General on August 26, 1993, attaching a revised salary scale as of January 1, 1991. The said revised salary scale was 0.47 per cent higher than the scale initially recommended by the ICSC. The letter of August 26, however, raised serious doubts as to the assumptions on which the revised scale was based and new questions as to the manner in which the scale initially recommended by the ICSC was constructed. Those doubts and questions were shared by the administrations of other Geneva-based organizations. On August 31, 1993, the Director General, therefore, requested clarification from the ICSC. On the same day, the ICSC sent to the Director General a new revised scale which is 0.93 per cent higher than the scale recommended by the ICSC in 1991 and was stated by the ICSC to be "more in line with the methodology that was then applicable." On September 3, 1993, therefore, the Director General requested the ICSC to

confirm that the latter revised scale was strictly in accordance with the methodology that was applicable in 1991. The Vice-Chairman of the ICSC replied on September 8, 1993, that he would have difficulty in confirming that the latter scale was strictly in conformity with the methodology that was applicable in 1991, but that it was "in conformity to the methodology as interpreted by the ILO Administrative Tribunal." The Director General, for his part, is of the view that the methodology applicable at the time of the 1990-1991 salary survey prohibited the taking into account of any steps beyond the maximum of the common system salary scale and that, insofar as such steps have been excluded in the computation of the salary scale sent to him by the ICSC on August 31, 1993, the latter salary scale is indeed in accordance with the said methodology.

11. The latter revised salary scale is recommended by the ICSC, under Article 12 of its Statute, for uniform application by all common system organizations with staff in Geneva. The ICSC also provided guidance regarding the procedure for the drawing up of revised salary scales for 1992 and 1993 and the adjustment of the language allowance for General Service staff.

12. It is important to note that, until the Tribunal's judgement, it was believed that organizations applying the common system had no discretion to adopt salary scales other than the ones recommended by the ICSC. This belief seems to be erroneous since the Tribunal, in the considerations of its judgement in question, stresses "the duty of any organisation that introduces elements of the common system or any other outside system into its own rules to make sure that the texts it thereby imports are lawful" (paragraph 21) and that "by incorporating the standards of the common system in its own rules the Organization has assumed responsibility towards its staff for any unlawful elements that those standards may contain or entail. Insofar as such standards are found to be flawed they may not be imposed on the staff and WIPO must if need be replace them with provisions that comply with the law of the international civil service" (paragraph 24).

13. In other words, it will be necessary henceforth, whenever there is doubt as to the lawfulness of any decision or recommendation of the ICSC, for the WIPO Coordination Committee to examine such lawfulness, and it will no longer be safe to apply the dicta of the ICSC only because they come from the ICSC and are labelled "common system." The WIPO Coordination Committee will also have to bear in mind that not only the decisions of the ICSC, but also its own decisions are subject to review by the Tribunal.

14. It is hereby proposed that the WIPO Coordination Committee approve the revised scale of net salaries for staff in the General Service category as recommended by the ICSC on August 31, 1993, with effect from January 1, 1991, as well as consequential revised scales of net salaries with effect from January 1, 1992, and January 1, 1993, and related scales of gross salaries which have been computed by the United Nations. The relevant amendments to Staff Regulation 3.1 appear in Annex I. It is to be noted that the salary scale for the General Service category with effect from January 1, 1993, shown in Annex I supersedes the scale proposed for approval by the WIPO Coordination Committee in paragraphs 9 and 10 and Annex V of document WO/CC/XXXI/1.

15. As a consequence of the revision of the January 1, 1991, salary scale, the language allowances for staff in the General Service category should also be increased with effect from January 1, 1991. The relevant amendment to Staff Regulation 3.7 appears in Annex II.

16. The estimated cost to WIPO of the 0.93 per cent adjustment of General Service salaries since January 1, 1991, and of the related adjustments of language allowances, pension fund contributions and overtime payments, together with interest, is approximately 850,000 Swiss francs for the period from January 1, 1991, to December 31, 1993.

17. The WIPO Coordination Committee is invited to note the information contained in paragraphs 1 to 16, above, and to approve the amendments to the Staff Regulations referred to in paragraphs 14 and 15, above.

II. DIFFERENCE OF WORKING HOURS OF PROFESSIONAL STAFF BETWEEN GENEVA AND THE BASE CITY OF THE COMMON SYSTEM (NEW YORK)

18. It is recalled that, at its September-October 1991 session, the WIPO Coordination Committee decided to establish a Working Group on Professional Remuneration with the task, *inter alia*, to establish the facts concerning the alleged inequality of treatment between staff serving in Geneva and those serving at the base of the common system (New York) (document WO/CC/XXVIII/7, paragraph 38).

19. One of the alleged inequalities of treatment brought to the attention of the Working Group was the difference of the number of hours that WIPO Professional staff members in Geneva on the one hand and United Nations Professional staff members in New York on the other were required to work in a year, a difference reckoned by the International Bureau to be 11.8 per cent more for the former than for the latter. While not denying that fact, the Working Group considered that the difference could be explained by "local circumstances" (see documents WO/CC/XXX/1, Annex I, paragraph 15 and WO/CC/XXX/4, paragraph 13).

20. At the September 1992 session of the WIPO Coordination Committee, the Director General, in his comments on the report of the Working Group, stated that "he consider[ed] that the fact that the difference in working hours between the base city of the remuneration system and Geneva is not taken into account in the remuneration of WIPO Professional staff is inconsistent with the principle of equal remuneration for equal work (a principle that, so far, nobody dared to challenge) and that the remuneration of WIPO Professional staff should be adjusted to take that difference into account" but that, "mindful of the appeal made by the General Assembly of the United Nations to the organizations of the United Nations common system "to refrain from seeking to establish for their staff, whether by provisions in their staff regulations or by other means, additional entitlements and benefits, as such actions would be detrimental to the common system under which all staff should receive equal [!] treatment irrespective of their employing organizations" (resolution 46/191 of December 20, 1991), and although it is considered that WIPO staff in Geneva and United Nations staff in New York do not in this respect receive equal treatment, [he] merely propose[d, at that stage,] that the Coordination Committee note that the Director General intend[ed] to request the ICSC to review the question of the difference of working hours of Professional staff between Geneva and the base city of the common system (New York) and to make recommendations as to how that difference of working hours could be taken into account in the determination of Professional remuneration of WIPO Professional staff" (see document WO/CC/XXX/4, paragraphs 14 and 15).

21. The WIPO Coordination Committee noted with approval the intention of the Director General referred to in the preceding paragraph (document WO/CC/XXX/6, paragraph 29) and, as mentioned in paragraph 21 of document WO/CC/XXXI/1, the Director General so requested the ICSC in a letter addressed to its Chairman on October 22, 1992.

22. Subsequently, in December 1992, the General Assembly of the United Nations noted that the Commission would study in 1993 the issue of working hours (Resolution 47/216, Section I.A., paragraph 5).

23. An item entitled "Relationship Between Hours of Work and Remuneration" was included on the agenda of the 38th session of the ICSC which was held from July 15 to August 3, 1993. Consideration of that agenda item by the ICSC took place on the basis of a note by the Secretariat of the ICSC (document ICSC/38/R.15), copies of which are available for consultation by any delegation which so wishes. The extract of an advance copy of the report of the ICSC for the year 1993 relevant to the said agenda item is reproduced as Annex III to the present document.

24. The so-called analysis of the issue by the Secretariat of the ICSC is based on the premise that "the nature of Professional work is not directly related to the schedule of working hours" (document ICSC/38/R.15, paragraph 8; emphasis added). In the ICSC's parlance, this becomes: "the nature of Professional level work was such that it did not lend itself to strict adherence to work schedule parameters [!]" (see Annex III, paragraph 181). This is not the type of language that one would expect from an expert body. What does it mean? Where is the borderline between not related and not directly related? Are Professional staff members expected to adhere to the work schedule provided for in the Staff Regulations and Rules or are they not? In WIPO, they do respect the work schedule, and the fact that the overwhelming majority of Professional staff members work beyond the normal working hours, out of professional conscience, does not mean that they are allowed to work less. What conclusion can one draw from such statements? That working hours are not relevant to Professional employment and that, as far as Professional staff members are concerned, the rules prescribing the work schedule of the Organization are of no legal value? A very unwise and dangerous message to send to the staff indeed.

25. Such peremptory statements are not supported by any fact or argument. Stating, as some members of the ICSC found fit to do, that "the consideration of work schedule parameters for professional staff was demeaning" (see Annex III, paragraph 181) is not an argument, but just a gratuitous offense to devoted staff members--unless those members of the ICSC meant that it was demeaning for them to review one of the basic conditions of employment of Professional staff.

26. The so-called analysis of the issue by the Secretariat of the ICSC is based only on a broad statement that "the Secretariat knows of no private sector concerns that pay overtime to Professional staff." This is a most disconcerting statement since each time references have been made to conditions of employment in the private sector (e.g., in the meetings of the Working Group on Professional Remuneration) such references have been dismissed by the Commission as irrelevant, the only valid reference being to the comparator national civil service, namely the United States Federal Civil

Service. Yet, no reference is made in the ICSC Secretariat document to the fact that the United States Code does provide for cash compensation of overtime worked by federal civil servants, including at Professional levels. That fact was brought to the attention of the ICSC by the representative of WIPO and by the Chairman of the Consultative Committee on Administrative Questions (CCAQ). The ICSC noted it (see Annex III, paragraph 185) but drew no conclusion from it.

27. It is to be noted that the ICSC, which has shown in the past remarkable alertness in tracking down small variations in the conditions of employment from one organization to the other, is not prepared to recognize a blatant major difference as the difference of working hours of Professional staff between New York and Geneva. The ICSC gives no serious reasons which could justify its conclusion. The ICSC obviously does not wish to elaborate a methodology to reckon differences of working hours between duty stations and an equitable formula for compensating such differences.

28. Working hours are part of the WIPO Staff Regulations and Rules. Their establishment is the responsibility of the WIPO Coordination Committee. The Director General hopes that the WIPO Coordination Committee will not share the views of the ICSC. Noting that the General Assembly of the United Nations will be apprised of the review by the ICSC of the question of the relationship between hours of work and remuneration in the annual report that the ICSC will submit at the 1993 session of the General Assembly of the United Nations, the Director General will wait for the consideration of this question by the General Assembly of the United Nations and revert to it at the 1994 ordinary session of the WIPO Coordination Committee.

29. The WIPO Coordination Committee is invited to note that the Director General will revert to the question of the relationship between hours of work and remuneration at the 1994 ordinary session of the WIPO Coordination Committee.

III. ADVICE ON AN APPOINTMENT TO A POST OF GRADE D.1

30. Staff Regulation 4.8(a) provides that "staff members shall be appointed by the Director General; however, appointments to posts in the Special category (grades D.1 and D.2) shall be made taking into account the advice of the Coordination Committee."

31. The Director General will, if the WIPO Coordination Committee agrees, promote Mr. Raymond Andary, a national of Lebanon, to grade D.1. Mr. Andary joined the Organization on January 1, 1975, and his present position is that of Head, Developing Countries Section, Industrial Property Information Division, which section will become a division. Grade D.1 is in line with the level of the duties of the head of a division.

32. The WIPO Coordination Committee is invited to advise the Director General in respect of the intended promotion referred to in paragraph 31, above.

IV. WIPO STAFF PENSION COMMITTEE

33. The WIPO Coordination Committee decided, in its ordinary session of 1977, that the WIPO Staff Pension Committee would consist of three members and three alternate members, one member and one alternate to be elected by the WIPO Coordination Committee. The members elected by the WIPO Coordination Committee have a four-year term of office.

34. In 1992, the WIPO Coordination Committee elected as member of the WIPO Staff Pension Committee, Mr. Clemens Wetz, Counsellor (Financial Affairs), Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and other International Organizations in Geneva, for the remainder of the term of office of his predecessor in the said Permanent Mission, Mr. Wolfgang Milzow (who had himself been elected as member of the WIPO Staff Pension Committee in 1989), that is, until the 1993 ordinary session of the WIPO Coordination Committee.

35. The WIPO Coordination Committee is invited to elect a member of the WIPO Staff Pension Committee for a term of four years expiring with the 1997 ordinary session of the WIPO Coordination Committee.

[Annex I follows]

ANNEX I

SALARY SCALES FOR THE GENERAL SERVICE CATEGORY
(Staff Regulation 3.1)Catégorie des services généraux / General Service category

Traitements en vigueur à partir du : 1er janvier 1991

Salaries in force as from: January 1, 1991

(montants annuels en francs suisses /
annual amounts in Swiss francs)

Grade	ECH. 1 STEP 1	ECH. 2 STEP 2	ECH. 3 STEP 3	ECH. 4 STEP 4	ECH. 5 STEP 5	ECH. 6 STEP 6	ECH. 7 STEP 7	ECH. 8 STEP 8	ECH. 9 STEP 9	ECH. 10 STEP 10	ECH. 11 STEP 11
G.1	1) 57929 2) 43299	60092 44727	62256 46155	64419 47583	66585 49012	68755 50440	70986 51868	73218 53296	75449 54724	77680 56152	79913 57581
G.2	1) 63836 2) 47198	66192 48753	68550 50309	70980 51864	73410 53419	75841 54975	78271 56530	80700 58085	83132 59641	85561 61196	87991 62751
G.3	1) 70307 2) 51433	72963 53133	75618 54832	78274 56532	80930 58232	83585 59931	86241 61631	88897 63331	91552 65030	94208 66730	96864 68430
G.4	1) 77605 2) 56104	80496 57954	83386 59804	86277 61654	89168 63504	92058 65354	94949 67204	97839 69054	100730 70904	103621 72754	106511 74604
G.5	1) 85874 2) 61396	89038 63421	92203 65447	95369 67473	98533 69498	101699 71524	104864 73550	108028 75575	111194 77601	114360 79627	117524 81652
G.6	1) 94986 2) 67228	98453 69447	101919 71665	105386 73884	108852 76102	112319 78321	115785 80539	119252 82758	122717 84976	126183 87194	129650 89413
G.7	1) 104968 2) 73616	108764 76046	112560 78475	116355 80904	120152 83334	123947 85763	127744 88193	131539 90622	135335 93051	139132 95481	142927 97910

1) Traitements bruts : élément de la rémunération considérée aux fins de la pension et base de l'imposition interne (art. 3.16bis)

2) Traitements nets (art. 3.1) / Net salaries (Reg. 3.1.1.)

Catégorie des services généraux / General Service category

Traitements en vigueur à partir du : 1er Janvier 1992
Salaries in force as from: January 1, 1992

(montants annuels en francs suisses /
annual amounts in Swiss francs)

Grade	ECH. 1 STEP 1	ECH. 2 STEP 2	ECH. 3 STEP 3	ECH. 4 STEP 4	ECH. 5 STEP 5	ECH. 6 STEP 6	ECH. 7 STEP 7	ECH. 8 STEP 8	ECH. 9 STEP 9	ECH. 10 STEP 10	ECH. 11 STEP 11
G.1	1) 58827 2) 45073	60849 46559	62870 48045	64892 49531	66914 51017	68942 52503	70977 53989	73013 55475	75048 56961	77084 58447	79120 59933
G.2	1) 64344 2) 49128	66547 50747	68754 52366	70972 53985	73190 55604	75407 57223	77625 58842	79843 60461	82076 62080	84309 63699	86542 65318
G.3	1) 70351 2) 53532	72776 55302	75201 57072	77625 58842	80051 60612	82492 62382	84934 64152	87375 65922	89816 67692	92261 69462	94719 71232
G.4	1) 77016 2) 58397	79654 60323	82309 62249	84965 64175	87622 66101	90278 68027	92943 69953	95618 71879	98293 73805	100968 75731	103644 77657
G.5	1) 84591 2) 63904	87500 66013	90409 68122	93329 70231	96258 72340	99188 74449	102117 76558	105066 78667	108037 80776	111007 82885	113977 84994
G.6	1) 92979 2) 69979	96186 72288	99393 74597	102600 76906	105838 79215	109090 81524	112342 83833	115594 86142	118846 88451	122099 90760	125351 93069
G.7	1) 102218 2) 76631	105759 79159	109320 81687	112880 84215	116441 86743	120001 89271	123562 91799	127123 94327	130683 96855	134244 99383	137804 101911

1) Traitements bruts : élément de la rémunération considérée aux fins de la pension et base de l'imposition interne (art. 3.16bis)

2) Traitements nets (art. 3.1) / Net salaries (Reg. 3.1.).
Gross salaries: component of pensionable remuneration and basis for internal taxation (Reg. 3.16bis)

Catégorie des services généraux / General Service category

Traitements en vigueur à partir du : 1er janvier 1993
Salaries in force as from: January 1, 1993

(montants annuels en francs suisses /
annual amounts in Swiss francs)

Grade	ECH. 1 STEP 1	ECH. 2 STEP 2	ECH. 3 STEP 3	ECH. 4 STEP 4	ECH. 5 STEP 5	ECH. 6 STEP 6	ECH. 7 STEP 7	ECH. 8 STEP 8	ECH. 9 STEP 9	ECH. 10 STEP 10	ECH. 11 STEP 11
G.1	1) 60882 2) 46497	62968 48030	65055 49563	67155 51096	69255 52629	71355 54162	73455 55695	75555 57228	77666 58761	79780 60294	81895 61827
G.2	1) 66587 2) 50681	68874 52351	71162 54021	73450 55691	75737 57361	78038 59031	80342 60701	82645 62371	84948 64041	87252 65711	89570 67381
G.3	1) 72809 2) 55223	75310 57049	77823 58875	80342 60701	82860 62527	85379 64353	87901 66179	90437 68005	92973 69831	95509 71657	98045 73483
G.4	1) 79708 2) 60242	82449 62229	85190 64216	87934 66203	90694 68190	93453 70177	96213 72164	98977 74151	101775 76138	104574 78125	107373 80112
G.5	1) 87542 2) 65921	90565 68097	93587 70273	96609 72449	99644 74625	102709 76801	105774 78977	108839 81153	111904 83329	114968 85505	118033 87681
G.6	1) 96249 2) 72190	99570 74572	102925 76954	106280 79336	109635 81718	112989 84100	116344 86482	119699 88864	123054 91246	126409 93628	129764 96010
G.7	1) 105880 2) 79052	109553 81660	113226 84268	116899 86876	120573 89484	124246 92092	127919 94700	131592 97308	135265 99916	138939 102524	142612 105132

- 1) Traitements bruts : élément de la rémunération considérée aux fins de la pension et base de l'imposition interne (art. 3.16bis)
Gross salaries: component of pensionable remuneration and basis for internal taxation (Reg. 3.16bis)
2) Traitements nets (art. 3.1) / Net salaries (Reg. 3.1.)

[Annex II follows]

ANNEX II

LANGUAGE ALLOWANCE FOR THE GENERAL SERVICE CATEGORY
(Staff Regulation 3.7)

Present Text

(a) A pensionable language allowance may be paid to staff members in the General Service category who pass an examination organized for the purpose by the Director General and who demonstrate proficiency in one or two of the following languages: Arabic, English, French, Russian and Spanish. The allowance shall not be payable for the staff member's mother tongue nor for any language in which the Director General considers that the staff member is required to be fully proficient by the terms of his appointment.

(b) The allowance is 4,176 Swiss francs per annum for proficiency in any two of the languages mentioned in paragraph (a) above, and 2,784 Swiss francs per annum for proficiency in any one of them, subject to the proviso contained in the said paragraph.

Proposed Text

(a) [No change]

(b) The allowance is 4,212 Swiss francs per annum for proficiency in any two of the languages mentioned in paragraph (a) above, and 2,808 Swiss francs per annum for proficiency in any one of them, subject to the proviso contained in the said paragraph.

[Annex III follows]

ANNEX III

EXTRACT OF AN ADVANCE COPY OF THE REPORT
OF THE ICSC FOR THE YEAR 1993I. Relationship between hours of work and remuneration

175. The Commission addressed this issue in the context of questions raised on the matter in 1991 during reviews of the remuneration of the Professional and higher categories by the Co-ordination Committee of the World Intellectual Property Organization (WIPO) and the Administrative Committee on Co-ordination (ACC). Similar questions had also arisen during the International Telecommunication Union (ITU) Consultative Group meetings in late 1992 and early 1993.

176. This issue had come before the Commission at the request of the Director-General of WIPO and the ITU Consultative Group. The General Assembly had taken note of the Commission's intention to study the matter in 1993.¹⁹ The thrust of the proposals from WIPO were that the post adjustment system should be modified to permit a consideration of working hour differences between New York and Geneva. Specifically, it was proposed that since the working hours in Geneva were 40 hours per week and, on average, 35.8 in New York (35 hours per week except during sessions of the General Assembly when they were 37.5), net remuneration in Geneva should increase by 11.8 per cent to account for these differences in working hours.

Views of the organizations

177. The Chairman of CCAQ noted that views on this issue were difficult to reconcile since they might be based on technical, emotional or political considerations. The question of hours of work and remuneration had been addressed by CCAQ in 1992 in response to a request from ACC. Whilst appreciating that hours of work varied in different locations, CCAQ had reached the general conclusion at that time that the status quo should be retained for the time being. That remained the view of the majority of organizations in CCAQ. Some organizations, however, preferred the adjustment of net remuneration to reflect working hour differences. He expressed disappointment that details of the practice of the comparator civil service had not been made available and requested more information in this respect.

178. The representative of WIPO recalled that, in October 1992, the Director General of WIPO, with the approval of the WIPO Coordination Committee, had requested the Commission to review the question of the difference of working hours of Professional staff between Geneva and the base city of the common system (New York) and to make recommendations as to how that difference of working hours could be taken into account in the determination of the remuneration of WIPO Professional staff. Addressing the "conceptual

framework" of the study prepared by the ICSC Secretariat, he pointed out that the premise that the nature of Professional work was not directly related to working hours was, disconcertingly, based on a broad reference to practices in the private sector and took no account of the practice of the comparator itself, which, under the United States Code, provided for cash compensation of overtime worked by federal civil servants, including at professional levels. That premise also failed to acknowledge the links between the volume of Professional work, the time required to perform it, working hours, the staffing of the organization, Professional remuneration and the resulting level of resources required. Moreover, it led to dangerous conclusions and sent the undesirable message that working hours were not relevant to Professional employment. The Director General of WIPO had made his position clear on this issue: working hours were part of the conditions of employment of Professional staff; the difference in working hours between the base city of the common system and the city where WIPO had its headquarters was inconsistent with the principle of equal treatment reaffirmed by the General Assembly of the United Nations in resolution 46/191 and should be compensated for. To that end, it would certainly be possible to find simpler and faster methods to reckon differences in working hours than the one suggested by the ICSC Secretariat.

View of the staff representatives

179. The President of CCISUA did not consider this issue to be one which required much time for the Commission's consideration. He felt that the issue required no action.

Discussion by the Commission

180. The Commission noted that the establishment and maintenance of relevant working hours were determined locally by the organizations of the common system. The Commission had dealt with this issue only in the context of specific remuneration issues, inter-alia, the treatment of working hours in the context of General Service survey methodology, the measurement and comparison of total compensation vis-à-vis the comparator and the relationship of working hours to overtime and shift differential payments. The Commission considered that the work performed by the Professional and higher categories could best be defined by tasks and/or projects as opposed to working hour increments.

181. The Commission considered that the nature of Professional level work was such that it did not lend itself to strict adherence to work schedule parameters. Furthermore, no overtime was paid to Professional staff in the common system. Some Commission members expressed the view that the consideration of work schedule parameters for professional staff was demeaning. In this regard, the Commission did not consider it possible to circumscribe Professional work activities by a time element as was done for production workers on piece work or clerical workers subject to overtime

payments. The Commission considered that it was expected that Professional staff would complete a task or project without a strict concern for the schedule of work hours and without expectation of a salary adjustment to account for the extra hours worked or compensatory time off. It was noted, in this regard, that the work schedules applicable at common system duty stations were based largely on local practice as determined at the time of local General Service salary surveys.

182. Nevertheless, the Commission addressed the technical requirements that should be considered if working hour increments were to be considered as a basis for adjusting the net remuneration of the Professional and higher categories. In this regard it noted that the WIPO analysis, which seemed to be supported by the ITU and ACC considerations of the issue, adjusted net remuneration for weekly work schedule differences without consideration of the actual hours worked in a year. It further noted that because of differences in leave provisions and other time-related provisions of the organizations, an accurate measurement of annual working hours, by duty station, would need to be calculated before consideration could be given to the adjustment of remuneration for this factor. It noted in this regard that some organizations of the common system granted compensatory time off for overtime worked by Professional staff. It further noted that leave, in addition to that reflected in the standard common system leave package, was granted by some organizations. These and other differences made it necessary to measure annual working hours accurately. The Commission considered that annual working hours were not measured by simply placing the weekly work schedule of Geneva in the numerator of a fraction and the average weekly work schedule of New York in the denominator, as proposed in the WIPO calculations.

183. The Commission noted in addition the detailed calculations included in the extensive documentation before it, that would need to be applied to a comprehensive data base reflecting organizations' practices on working hours and leave, before any conclusion could be arrived at on this item. Such a database was not currently available and a major effort would be required to establish it. Even if such a database were available, the issue was viewed as complex because of the diversity of administrative practices.

184. The Commission considered that notwithstanding the technical aspects of a measurement methodology, a number of related considerations would require attention if such an adjustment to net remuneration of Professional staff were made. These were the relationship of working hours to:

(a) local practice (Since a duty station's working hours were largely based on local practice to satisfy the Flemming principle how could this be reconciled with the Noblemaire principle requiring a reference to the comparator for Professional staff?);

(b) net remuneration margin calculations (If adjustments to remuneration were to be made within the common system for working hours differences, should not such differences also be measured within the context of net remuneration margin calculations? The Commission recalled in this regard that it had made such measurements in the early 1980's but only in the context of total compensation comparisons.);

(c) flexible working hours programmes (If staff have a choice in the selection of their individual working hours, in the context of a flexible working hours programme, how should such choices be integrated in the adjustment of net remuneration for working hours differences?).

All of these issues would need to be studied further before any conclusion could be reached about an appropriate net remuneration adjustment mechanism.

185. With regard to comparator practices, it was noted that overtime payments applied to professional levels up to the GS 15 (equivalent of P.5 of the common system) although at a reduced rate of pay and limited to a maximum amount.

186. Some members were of the opinion that the comparator United States Civil service should be the base for any work hour comparisons. With regard to comparator practices, it was noted that pay was based on an annual requirement of 2087 hours; that overtime pay was not required for Professionals, but when paid it was with substantial limitation and specific caps.

Decision of the Commission

187. The Commission decided to maintain the current common system practices with regard to working hours and to inform the General Assembly accordingly.

[End of Annex III and of document]