

WIPO General Assembly

Forty-Seventh (22nd Ordinary) Session
Geneva, October 5 to October 14, 2015

**REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT
COMMITTEE (IAOC)**

prepared by the Secretariat

1. The present document contains the Report by the WIPO Independent Advisory Oversight Committee (IAOC), which is being submitted to the WIPO Program and Budget Committee (PBC) at its twenty-fourth session (September 14 to 18, 2015).
2. Any decisions of the PBC in respect of that document will appear in the Decisions taken by the Program and Budget Committee (document A/55/4).

[Document WO/PBC/24/2 follows]

Program and Budget Committee

Twenty-Fourth Session
Geneva, September 14 to 18, 2015

REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)

prepared by the Secretariat

1. This document contains the Report by the WIPO Independent Advisory Oversight Committee (IAOC), prepared by the IAOC and covering the period September 1, 2014, to August 31, 2015.

2. The following decision paragraph is proposed:

3. *The Program and Budget Committee recommended to the WIPO General Assembly to take note of the Report by the WIPO Independent Advisory Oversight Committee (IAOC) (document WO/PBC/24/2).*

[The Report by the WIPO Independent Advisory Oversight Committee follows]

ANNUAL REPORT BY THE
WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE
FOR THE PERIOD SEPTEMBER 1, 2014 to AUGUST 31, 2015

September 8, 2015

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I. INTRODUCTION

1. In line with its terms of reference, the WIPO Independent Advisory Oversight Committee (IAOC) submits an annual report to the Program and Budget Committee (PBC) and to the WIPO General Assembly (GA).

2. The IAOC was established in 2005 as the WIPO Audit Committee. In 2010 its mandate was changed and it was subsequently renamed WIPO Independent Advisory Oversight Committee (IAOC). The IAOC advises the PBC and GA on matters within its mandate which include the promotion of internal controls, focusing assurance resources and oversight of audit performance. It also reviews and oversees activities and projects such as the New Construction Projects.

3. The present annual report covers the period September 1, 2014 to August 31, 2015. Section II of this report provides an overview of IAOC sessions, composition and working methods. Section III details matters reviewed by the IAOC during the period, while Section IV provides information on the proposed revisions to the IAOC's Terms of Reference.

II. QUARTERLY SESSIONS, COMPOSITION AND WORKING METHODS

Quarterly Sessions

4. During the period, the IAOC held four quarterly sessions: from November 13 to 17, 2014 (35th session); from March 23 to 27, 2015 (36th session); from May 26 to 29, 2015 (37th session); and from August 24 to 28, 2015 (38th session). In line with its terms of reference, the IAOC issued a quarterly report after each session. In compliance with a GA decision,¹ an Information Session for Member States was held at the end of each session.

Committee Composition

5. The IAOC comprises seven members drawn from WIPO's geographical groups who serve in their personal capacity and independently of Member States. Its current membership continues to reflect a proper mix and balance of skills, expertise and experience in its composition, and consists of the following members

- Ms. Mary Ncube, Chair (African Group)
- Mr. Gábor Ámon, Vice-Chair (Group of Central European and Baltic States (CEBS))
- Mr. Anol Chatterji (Asian Group)
- Mr. Egbert Kaltenbach (Group B)
- Mr. Nikolay Lozinskiy (Group of Central Asian, Caucasus and Eastern European States (CACEEC))
- Mr. Fernando Nikitin (Group of Countries of Latin America and the Caribbean)
- Mr. Zhang Guangliang (China)

New Secretary of IAOC

6. Mr. Frederick Samuels took up duties as Secretary to the IAOC in March 2015, replacing Ms. Nicola Lander, who had been appointed to another position in WIPO.

7. The Committee provided Management with proposed Terms of Reference for the new IAOC Secretary, outlining its expectations as to the logistical and technical assistance required. The Committee expects these proposals to be reflected in a revised job description of the incumbent. Management informed the IAOC that a new job description which would take into account the IAOC's suggestions would be finalized soon.

¹ Document WO/GA/34/15

Working Methods

8. The Committee is non-executive, providing advice based on interactions and information, provided by the Secretariat and/or the internal and external auditors. Its working methods continue to be documentation review and discussions with Secretariat officials as well as interactions with the External Auditor (EA) and the Director, Internal Oversight Division (IOD), followed by internal deliberations to reach its conclusions.

III. MATTERS REVIEWED

A. External Audit and audited Financial Statements

External Audit

9. With a view to enhance the interaction with the External Auditor and to improve the follow-up process for the External Auditor's recommendations, the Chair of the IAOC wrote to the Comptroller and Auditor General of India, in his capacity as External Auditor, requesting consideration of certain proposals of the IAOC and a meeting with a senior official from his Office. In response to this, Mr. Prasenjit Mukherjee, Deputy Comptroller and Auditor General, and Mr. K. S. Subramanian, Principal Director, International Relations Office met the IAOC during its 36th session. Mr. Subramanian informed the Committee that henceforth, he would be responsible for coordinating all matters relating to the external audit of WIPO, thereby facilitating monitoring at a senior level.

10. The representatives also briefed the IAOC on the areas of activity in WIPO which they would cover in addition to their audit of the Financial Statements relating to the financial period ending December 31, 2014.

11. Regarding the classification of audit recommendations by priority, it was agreed that as the practice was not provided for in the International Standards on Auditing (ISA) which govern the external audit in the United Nations system, only high risk recommendations would be included in the Executive Summary of the EA's Report, thus allowing Management to assign a high priority to them, whereas other recommendations would be considered as medium priority.

12. The IAOC looks forward to continued close cooperation with the External Auditor, and all efforts would be made for regular interaction between the EA and the IAOC in the future.

13. At its 38th session, the Committee received the Audited Financial Statements for the year 2014 and the Report of the External Auditor. The Committee noted that the External Auditor had placed an unqualified audit opinion on the financial statements for the year 2014.

14. The Committee also noted that the External Auditor had recorded its appreciation of the changes/improvements carried out by Management in the Financial Statements in response to the audit observations.

15. The report of the External Auditor contains the findings of the audit of the Financial Statements, the performance audit of the implementation of the ERP (Enterprise Resource Planning) System and the compliance audit of the Human Resources Management Department (HRMD). The report contains 21 recommendations, all of which have been accepted by Management for implementation.

16. In respect of the ERP System implementation, the Committee noted that the External Auditor's report contained a recommendation that Management "may continue to explore ways to limit the delay at a project level as well as the portfolio level." While accepting the delay and the need to limit it, Management stated that they had "placed an emphasis on quality and cost

over time". The Committee will monitor the ERP System implementation more closely at its future sessions.

17. The Committee noted that the External Auditor's report includes six recommendations emanating from the compliance audit of the HRMD which called for aligning certain practices in the administration of benefits to regulations, rules and policies. Management had accepted the recommendations in full and undertaken to implement them with immediate effect.

Audited Financial Statements 2014

18. The Committee noted that the External Auditor had placed an unqualified audit opinion on the financial statements for the year ended December 31, 2014. The Committee also noted that the External Auditor had recorded its appreciation of the changes/improvements carried out by Management in the Financial Statements in response to their audit observations.

19. The surplus for the year 2014 on an IPSAS basis stood at Swiss francs 37 million compared to Swiss francs 15.1 million in 2013, an increase of 145 per cent. Total revenue in 2014 was Swiss francs 370.2 million, compared to Swiss francs 351.6 million in 2013, representing an increase of 5.3 per cent.

20. The largest source of revenue was the PCT System fees at Swiss francs 278.6 million representing 75.2 per cent of the total revenue earned by WIPO and 8.2 per cent increase over the previous year. Madrid System fees represented the second largest source of revenue, making up 14.9 per cent of total revenue for 2014, a decrease of 0.5 per cent, compared to the previous year. The Hague System revenue at Swiss francs 3.2 million, represented the third largest source of revenue in 2014.

21. Total expenses in 2014 were Swiss francs 333.2 million, representing a decrease of 1.0 per cent. Personnel Expenditure at Swiss francs 216.4 million was the largest expense caption in 2014 and represented an increase of 1.1 per cent over 2013. Expenses on Contractual Services at Swiss francs 63.6 million, is the second largest expense caption, representing a decrease of 2.2 per cent over 2013. Operating Expenses at Swiss francs 20.8 million was the third largest expense caption, representing a decrease of 1.4 per cent, compared to the previous year.

22. In relation to the Financial Statements, the External Auditor made four recommendations, including a recommendation to prepare the Program Performance Report (PPR) before the conclusion of the financial audit or provide explanation for the variance between budget and actuals in the Financial Statements.

B. Internal Oversight

2014 work plan results and 2015 work plan

23. At the 36th session of the IAOC, the IOD reported to the Committee that it had achieved its planned results for 2014, as defined in the Program and Budget. New initiatives and approaches, such as "continuous auditing" which involves audit testing of selected key internal controls in WIPO in real-time or near real-time, were implemented during this period.

24. Subsequent to its 35th session, the Committee reviewed the draft IOD 2015 work plan and provided the Director, IOD, with a number of comments and suggestions, which were taken into account in finalizing the work plan.

25. At each of the sessions, the IAOC was informed about ongoing and planned assignments and noted that the implementation of the 2015 Oversight Plan was on time and on track, except for the planned audit of the “Ethical Framework”, which has been postponed until a new Chief Ethics Officer has been appointed and taken up his/her functions.

Departure of the Director, Internal Oversight Division (IOD)

26. The IAOC took note of the resignation of Mr. Thierry Rajaobelina, Director, Internal Oversight Division (IOD), with effect from the end of April 2015, and his upcoming move to assume the position of Director of Internal Oversight at another organization of the United Nations system.

27. The IAOC placed on record its appreciation for the excellent work done by Mr. Rajaobelina and for his close cooperation with the Committee. During more than three years of tenure, Mr. Rajaobelina had strengthened WIPO’s internal oversight function, upheld its independence and significantly enhanced its relevance and performance. Under his leadership, the internal audit and the evaluation functions had achieved general conformity with professional standards.

Recruitment of a New Director, IOD

28. During the 36th session, the IAOC was briefed by the Director, HRMD, on the recruitment process to fill the position of Director, IOD. The IAOC offered to contribute to the selection process, as foreseen in WIPO’s Internal Oversight Charter. The IAOC provided comments and suggestions on the job description, which HRMD took into account in preparing the vacancy announcement. The HRMD Director agreed to consult the IAOC again once the shortlist had been established (paragraph 14 of the IAOC Report on its 36th session refers). Following the recommendation by the Interview Board, Management would seek the endorsement of the IAOC prior to the appointment of the selected candidate, as per paragraph 43 of the Internal Oversight Charter.

29. At its 37th session, the IAOC was informed the Interview Board was being established and would shortly start reviewing the applications received. Subsequently, there was no more involvement of the IAOC in the recruitment process.

30. At its 38th session, the IAOC received from the Director General a Memorandum dated August 24, 2015, seeking endorsement for the appointment of the selected candidate. The Committee reviewed the profile of the proposed candidate against the requirements of the vacancy announcement and provided its response to the Director General.

Performance Appraisal of the Director, IOD

31. In accordance with paragraph 45 of the revised Internal Oversight Charter which provides that the “...*performance appraisal of the Director, IOD, shall be made by the Director General after receiving input from and in consultation with the IAOC*”, the IAOC provided input, based on the work-related objectives established for 2014 for the Director, IOD, in WIPO’s Performance Management and Staff Development System (PMSDS). The appraisal was transmitted in writing to the Director General.

Acting Director, IOD and IOD Staffing

32. At the 37th session of the IAOC, the Committee met with Mr. Tuncay Efendioglu, the newly appointed Acting Director, IOD, who would also continue in his function as the Head of the Internal Audit Section within IOD.

33. With respect to other IOD staff, the Committee was informed that the position of Associate Evaluation Officer and the position of Secretary for the Investigations Section had been filled. The Committee was pleased to note, except for the position of Director, IOD, all vacancies were filled.

Draft Policy for Publication of Oversight Reports

34. Having previously provided input into a set of standard operating procedures for publication of oversight reports prepared by IOD to guide it on the publication of future oversight reports, the Committee was pleased to note that its comments and input were taken into account. The draft policy provides, *inter alia*, detailed criteria for withholding or redacting reports on confidentiality grounds. The IAOC also welcomed that the status of implementation of recommendations will be updated periodically and published on the same webpage as the reports. The Committee will monitor the application of the policy.

C. Internal Audit

Draft Internal Audit Manual

35. The IAOC reviewed and provided comments on the draft Internal Audit Manual. The IAOC considers the draft Internal Audit Manual as a comprehensive and informative document, which provides guidance on the audit process both to auditors and to auditees.

Draft Audit Strategy

36. The IAOC reviewed the draft Audit Strategy and emphasized the need to clearer reference the linkages between Organization-wide risks identified by managers and contained in WIPO's Enterprise Risk Management (ERM) system and the audit risk assessment process conducted by IOD.

Internal Audit reports

37. Over the period, the IAOC reviewed together with IOD and Management four internal audit reports on "Third Party Risk", "Asset Management", "The WIPO Academy" and "Safety and Security", as well as a report on the "Monitoring of Exceptions".

38. The Committee was pleased to note that the audit assessed WIPO's asset management processes as generally robust, notwithstanding the need to further strengthen controls over asset tracking and physical verification. With regard to the Third Party Risk audit, the IAOC welcomed that an audit clause is now included in WIPO's General Conditions on Contract, giving IOD audit access, as appropriate, to contractors. The IAOC appreciates the planned establishment of a supplier sanctions regime and would like to be informed on progress made in that regard.

39. With regard to the audit of the WIPO Academy, the Committee believes that the audit recommendations will help in formalizing and implementing the repositioning of the Academy. Management pointed out that the implementation of certain recommendations depended on the issuance of a new Office Instruction defining the Academy's mission, objectives, roles and responsibilities, but assured the Committee that implementation action on other recommendations made would start without delay.

40. With regard to the audit of Safety and Security, the Committee welcomed this timely review of an area which is critical for the functioning of WIPO. The Committee was pleased that the audit identified several good practices in the area of Safety and Security. As to the areas for improvement identified by the audit, the Committee noted that Management has accepted all 10 audit recommendations made and is committed to implement the four high priority recommendations by the end of 2015. The Committee believes that the audit findings can guide and inform the newly recruited Chief Security Officer and the future Head of Safety and Security Coordination Service in their responsibilities. The Committee was informed that the report would not be published due to reasons of confidentiality, as the report contained some sensitive information.

41. The Committee also reviewed an IOD report on the monitoring of exceptions to WIPO policies and procedures, carried out with a view to enhance monitoring of exceptions by

Management. The report concluded that there are very few exceptions in the application of WIPO's regulations, rules and instructions. On this basis, the IAOC concurred with IOD that the monitoring of exceptions need not be done on a continuous basis but instead could be done annually with the results of the present report serving as a baseline.

D. Evaluation

Draft Evaluation Policy

42. At its 38th session, the IAOC reviewed a draft of the new Evaluation Policy, prepared by IOD in response to the recommendations of the external quality assessment of the evaluation function.

43. The IAOC was pleased to see that the draft document clearly establishes the principles for the evaluation function in WIPO and describes the role of IOD in centralized and decentralized evaluations. The Committee provided the Director, IOD with a number of suggestions for consideration in finalizing the new Evaluation Policy.

Evaluation reports

44. Over the period, the IAOC reviewed together with IOD and Management three evaluation reports on "Strategic Goal VI: International Cooperation on Building Respect for Intellectual Property", "WIPO Rewards and Recognition Program (Pilot Phases 2013 – 2014) and "Chile Country Portfolio Evaluation 2010-2014".

45. The IAOC was concerned about the considerable delay in finalizing the evaluation report on the Program Evaluation of Program 30: Small and Medium-sized Enterprises and Innovations (SMEs). The Committee was informed that a draft evaluation report had been shared with the Program Managers concerned as early as April 30, 2015, whereas Management comments were only received in August 2015. The Committee emphasized the need for Program Managers to actively engage in oversight assignments and to provide their comments on a timely basis.

Investigation

46. The IAOC was regularly briefed on the status of ongoing investigation cases and their disposition. In several cases, the Committee provided advice to the Director, IOD in cases with a perceived conflict of interest situation. The IAOC devoted considerable time in providing advice to and interacting with, the Chair of the GA and the Chair of the Coordination Committee on some of these cases.

47. At its 38th session, the Committee discussed with the Director, IOD, a Management Implication Report resulting from an investigation, which showed the need to reinforce existing information and physical access controls.

E. Follow-up on Oversight Recommendations

Internal Oversight and External Audit recommendations

48. The IAOC noted the approval by the General Assembly of the recommendations of the PBC that the IAOC should, in accordance with its mandate, continue to review and oversee closely the actions taken by the Secretariat in response to its recommendation and those of IOD, and report on the matter to the PBC.

49. The IAOC reviews the status of implementation of all oversight recommendations twice a year. It also reviews at every quarter very high risk recommendations and high risk recommendations closed without implementation following any Management-IOD disagreement on a recommendation's validity with a consequent acceptance by Management of residual risk.

50. At its 37th session, the Committee advised the Director, IOD, to reassess the residual risks relating to outstanding recommendations and to modify the risks rating accordingly. The IAOC noted that as of August 2015, a total of 176 recommendations were not yet fully implemented, 66 per cent of which were of high priority. This reflects the position after reassessment of residual risks.

51. The Committee noted that these numbers did not yet include the 21 recommendations made by the External Auditors in their report for the financial year 2014, dated July 7, 2015.

Recommendations of the Joint Inspection Unit (JIU)

52. The IAOC was briefed on progress made in implementing recommendations emanating from reports and notes of the JIU. At its 37th session, the Committee noted that there were 77 recommendations made between 2010 and 2014 which were still outstanding. However, the Committee was pleased to note that significant progress in implementation had been made in 2014, raising the overall implementation rate from 29 per cent as at the end of 2013 to 55 per cent at the end of 2014.

53. The Committee also noted that Management considered a certain number of recommendations as not being relevant to WIPO. The Committee encouraged Management to discuss such cases with the JIU at an early stage, preferably when commenting on the draft report.

54. At the 38th session, Management informed the Committee that all of the recommendations made by the JIU in their report "Review of Management and Administration in the World Intellectual Property Organization (WIPO)" (JIU/REP/2014/2), have been implemented except for three recommendations which are addressed to the legislative body.

F. Ethics and Ombudsperson

Ethics Office

55. The IAOC was informed by Management that, in accordance with best practice in the UN system, the Chief Ethics Officer would in future report directly to the Director General. The Committee was further informed that, in line with an IAOC suggestion, the annual report of the Chief Ethics Officer would be submitted as a stand-alone report rather than as an annex to the Director General's annual report on human resources. This would emphasize the independent role of the Ethics Office.

56. As regards another IAOC suggestion that the annual work plan of the Ethics Office could benefit from review by the Committee prior to its finalization, the IAOC was informed that, given the independence of the Ethics Office function, the IAOC would interact directly with the Chief Ethics Officer.

57. Prior to the 38th session, the Director, HRMD briefed the IAOC on the recruitment process for the Chief Ethics Officer. At its 38th session the Committee was informed that a candidate had been selected and will be appointed as of September 15, 2015.

Ombudsperson

58. The IAOC met with the outgoing Ombudsperson who provided the Committee with a briefing on the work. During its interaction, the IAOC felt that an analysis of the workload statistics of the Ombudsperson could provide valuable input for consideration by the Senior Management Team, and HRMD in particular, without violating confidentiality or professional ethics of the Office of the Ombudsperson.

G. New Construction Projects

59. The IAOC was apprised of progress on the New Construction Project during its sessions. At its 37th session, the Committee was informed of the ongoing process of reviewing and validating invoices for works for the New Conference Hall to enable contractor and sub-contractor accounts to be closed. The IAOC took note that the final accounts and the associated additional funding requirements, if any, would be determined in the light of the outcome of the on-going discussions with the professional parties involved.

60. The IAOC reviewed the Policy on the External Use of WIPO Conference Facilities and took note that charge rates will be revisited at the end of 2015.

H. Administration and Management

61. At its 36th session, the IAOC benefited from a presentation on various management initiatives, including Results-Based Management, risk management and internal controls. Discussions focused on improvements to the WIPO regulatory framework, as well as integration of risk management and internal controls.

62. At its 37th session, the IAOC was briefed on Enterprise Risk Management (ERM), and was informed that it was proceeding according to schedule. The Committee reaffirmed the importance of ownership of the process by all operational units, and in particular at the program level, through identification of risks and proposals for mitigation and management of risks. The Committee looks forward to receiving further updates on the preparation of the Corporate Risk Register and its reconciliation to the internal control framework. The Committee would continue to follow up the progress of implementation.

63. At the 36th session, the Committee met with the new Director, Security and Information Assurance Division, who is the Chief Security Officer of the Organization. The IAOC appreciated that with this newly established position, IT security and physical security are seen in context and are now dealt with in an integrated manner.

64. In order to deal with the risks posed by the decision of the Swiss National Bank to discontinue maintaining and accepting Swiss franc denominated deposits of international organizations, Management informed the Committee that the Secretariat was formulating alternative investment and cash custody approaches in consultation with experts and would submit these for consideration by Member States at the next session of the PBC. The IAOC appreciates the efforts being made in this regards and will follow up on a regular basis.

65. The IAOC was informed that in response to Member States' directions, the Program and Budget for 2016/17 incorporates capital expenditures under the specific Program Heads to which they related. The IAOC suggested that for each capital project, the total expenditure, the expenditure incurred up to the end of the preceding biennium and the expenditure proposed for approval in the current program budget be presented. This was agreed to by Management.

66. The Committee noted with approval that the PPR for the first year of the current biennium was being prepared in parallel with the proposed Program Budget for the new biennium and would be presented to the PBC at its forthcoming session.

IV. PROPOSED REVISIONS TO THE TERMS OF REFERENCE

67. During its 35th and 36th sessions (November 2014 and March 2015, respectively), the Committee reviewed its Terms of Reference (ToR), and proposed a number of revisions, as recorded in the report of the IAOC's 36th session (document WO/IAOC/36/2).

68. The IAOC received from Member States and from the IOD Director comments, which were duly reviewed and considered. These resulted in further proposed revisions to the ToR, which were shared with Management and subsequently submitted to the PBC for approval at its 24th session.

69. The principal proposed revisions are:

- (a) to align the ToR with recent changes to the Internal Oversight Charter;
- (b) to incorporate certain best practices in the functioning of oversight committees;
- (c) to elaborate on the Committee's role in giving advice in the area of investigations, including situations not otherwise covered in the existing oversight framework;
- (d) to enhance independent oversight over WIPO's ethics function;
- (e) to streamline the Section on Membership and Qualifications, as the provisions for the initial transition period are no longer relevant.

70. At its 35th session, the Committee reviewed and revised its Rules of Procedure, which now provide for the possibility of special session by way of virtual meetings in a case of urgency.

V. CLOSING REMARKS

71. The IAOC wishes to thank the Director General, Management, the former Director of IOD and the Acting Director of IOD for their availability, clarity and openness in their interactions with the IAOC, and timely provision of documents.

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