

## **Working Group on the Legal Development of the Madrid System for the International Registration of Marks**

**Sixteenth Session  
Geneva, July 2 to 6, 2018**

### **PROPOSAL BY THE DELEGATION OF THE UNITED STATES OF AMERICA**

1. In a communication dated June 19, 2018, the International Bureau received a proposal from the Delegation of the United States of America entitled “Contribution to the Financial Well-being of the Organization” for consideration by the Working Group on the Legal Development of the Madrid System for the International Registration of Marks, at its sixteenth session to be held in Geneva from July 2 to 6, 2018.
2. The said proposal is annexed to this document.

[Annex follows]

## Contributing to the Financial Well-being of the Organization

### Submission of the United States to the Madrid Working Group

In the interests of contributing to the well-being of the World Intellectual Property Organization (WIPO), we propose that the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (Madrid Working Group) consider whether the level of fees is sufficient to cover expenses and more broadly contribute to the common expenses of the Organization. While the Madrid Working Group has indicated its intent to pursue a discussion of fee revision and payment options in the medium term on the Working Group priorities roadmap<sup>1</sup>, the United States proposes to move that discussion to the near term to ensure that the Madrid Union is able to responsibly contribute to the financial well-being of the Organization at the soonest opportunity.

According to the October 2017 WIPO Assemblies decision on the 2018-2019 WIPO Program and Budget<sup>2</sup>, the fee-financed Unions are each expected to review their budgets and to ensure that they are not in a deficit. The United States believes that the fee-financed Unions should cover their own expenses as well as contribute to the common expenses of the Organization. Furthermore, we believe that the fee-financed Unions should also consider supporting the costs of the contribution-financed Unions (CF Unions) which are struggling financially.

In 2017, the Madrid Union Assembly, together with all other WIPO Assemblies<sup>3</sup>:

“... (ii) Recalled that, in accordance with the Treaties of the fee-financed Unions, each Union should have revenue sufficient to cover its own expenses;  
(iii) Noted that fee-financed Unions with a projected biennial deficit in the 2018/19 biennium should examine measures in accordance with its own treaty to address that deficit...”

Annex III of the Program and Budget for 2018/19 biennium shows the Budget of Unions, and clearly shows that the Madrid Union is not in deficit. The Madrid Union projects an income of 143,114,000 CHF, well over its projected expenses of 137,405,000 Swiss Francs.

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<sup>1</sup> See Annex IV to MM/LD/WG/14/6 (Summary by the Chair).

<sup>2</sup> See paragraph 88 of document A/57/12 (General Report).

<sup>3</sup> Id.

**Table 11: Overall Scenario by Union<sup>4</sup>**  
(in thousands of Swiss francs)

	CF Unions		PCT Union		Madrid Union		Hague Union		Lisbon Union		Total	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
<b>2018/19 Income</b>	<b>32,378</b>		<b>637,353</b>		<b>143,114</b>		<b>12,324</b>		<b>993</b>		<b>826,162</b>	
<b>2018/19 Expenditure</b>												
Direct Union	22,622		242,850		66,869		14,626		1,419		348,386	
Direct Admin	9,882		124,320		42,534		10,281		818		187,835	
<b>Sub-total, Direct</b>	<b>32,505</b>		<b>367,169</b>		<b>109,403</b>		<b>24,907</b>		<b>2,238</b>		<b>536,221</b>	
Indirect Union	-		114,442		14,279		-		-		128,722	
Indirect Admin	-		54,156		6,757		-		-		60,914	
<b>Sub-total, Indirect</b>	<b>-</b>		<b>168,599</b>		<b>21,036</b>		<b>-</b>		<b>-</b>		<b>189,635</b>	
<b>Total, 2018/19 Expenditure</b>	<b>32,505</b>		<b>535,768</b>		<b>130,439</b>		<b>24,907</b>		<b>2,238</b>		<b>725,857</b>	
Estimated IPSAS adjustment to budget	1,736		28,615		6,967		1,330		120		38,767	
<b>Total Expenditure after IPSAS adjustments</b>	<b>34,241</b>		<b>564,383</b>		<b>137,405</b>		<b>26,238</b>		<b>2,357</b>		<b>764,624</b>	
<b>Operating Result</b>	<b>(1,863)</b>		<b>72,971</b>		<b>5,708</b>		<b>(13,914)</b>		<b>(1,364)</b>		<b>61,538</b>	
RWCF, Target*	16,252	50.0	107,154	20.0	32,610	25.0	3,736	15.0	-	n/a	159,752	22.0

\*RWCF targets are calculated as percent of the biennial budgetary expenditure for each Union

From the Table, one can see that several WIPO Unions project a deficit, including the CF Unions. We believe that all fee-financed Unions should assess the level of their fees in relation to their costs and common expenses and the overall financial well-being of the Organization.

The CF Unions currently support work on Copyright, Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources, Classification and Standards, and Information Technology. In addition, the CF unions contribute to the common activities of the Organization, such as costs associated with maintenance of WIPO's buildings. The CF Unions have also been loaning the Lisbon Union funds to cover the deficit of the Lisbon Union, and because the Lisbon Union has not taken steps to adequately reduce or eliminate its deficit<sup>5</sup>, it appears likely to continue to need financial support. Continued financial support of the CF unions appears time limited, because the CF Unions projected a nearly two million CHF deficit, and their reserves are only adequate for a few more years of deficit spending. The Hague Union has also been experiencing significant deficits<sup>6</sup>. As a result, between the potential for continued loans to the Lisbon and Hague Unions, and continued deficit spending of the CF Unions, additional funds will need to be found for the CF Unions to be solvent.

Traditionally, the PCT has covered a disproportionate share of the overall expenses of the Organization. We believe the other fee-financed Unions of WIPO, including the Madrid Union, should examine their fee levels in order to contribute responsibly to the overall financial well-being of the Organization.

[End of Annex and of document]

<sup>4</sup> See WO/PBC/27/8, page 206.

<sup>5</sup> At the most recent meeting June 11-12, 2018, the Working Group on the Development of the Lisbon Union considered a proposal to provide for a fee reduction rather than considering an increase in fees to address their budget deficit.

<sup>6</sup> The Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs will be considering a fee increase in its next meeting July 16-18, 2018.