

WIPO Independent Advisory Oversight Committee

Thirty-First Session
Geneva, November 26 to 29, 2013

REPORT

adopted by the WIPO Independent Advisory Oversight Committee

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INTRODUCTION

1. The 31st session of the WIPO Independent Advisory Oversight Committee (IAOC) took place from November 26 to 29, 2013. Present were Messrs. Fernando Nikitin (Chair), Ms. Mary Ncube (Vice Chair), Messrs. Anol Chatterji, Kjell Larsson, Nikolay Lozinskiy and Ms. Maria Beatriz Sanz Redrado. Mr. Ma Fang sent regrets for his absence.

AGENDA ITEM 1: ADOPTION OF THE AGENDA

2. The Committee adopted its Agenda with the following additions: two sub-Agenda items (i) IAOC membership rotation and (ii) IAOC-related decisions taken at the Fifty-First Series of Meetings of the Assemblies of the Member States of WIPO, and a new Agenda item “Financial Regulations and Rules”. The Agenda is attached to this report as Annex I. The list of documents is attached as Annex II.

IAOC Membership Rotation

3. On January 31, 2014, the mandates Mr. Kjell Larsson, Mr. Ma Fang and Ms. Maria Beatriz Sanz Redrado will expire. The Committee would like to place on record its deep gratitude to the three outgoing members for their contributions to its proceedings, which were marked by their leadership abilities as well their extensive knowledge and a mature understanding of management processes.

Fifty-First Series of Meetings of the Assemblies of the Member States of WIPO

4. The Committee took note of the draft reports of the Fifty-First Series of Meetings of the Assemblies of the Member States of WIPO, and other related meetings including the Forty-Third (21st Ordinary) Session of the WIPO General Assembly (GA) and the Sixty-Seventh (44th Ordinary) Session of the WIPO Coordination Committee.

5. Pursuant to the recommendations of the Program and Budget Committee (PBC) to the GA (document A/51/13) and subsequent GA decisions recorded in document WO/GA/43/22 Prov., the IAOC will continue to review and oversee the implementation of the recommendations of the Internal Audit and Oversight Division (IAOD) and the External Auditor in accordance with its mandate and report on the matter to the PBC, and, moving forward, it will also review and oversee the implementation of the recommendations of the Joint Inspection Unit (JIU).

AGENDA ITEM 2: MEETING WITH THE DIRECTOR GENERAL

6. The IAOC met with the Director General who apprised the IAOC on the current financial situation and provided an update on recent events. Topics discussed included UN system-wide initiatives on human resources management. The IAOC also shared with the Director General its observations on the need for provisions in WIPO's Financial Regulations and Rules for the scenario of non-approval of a budget prior to the beginning of a new financial period (see Agenda Item 3 below).

AGENDA ITEM 3: FINANCIAL REGULATIONS AND RULES

7. The IAOC reviewed the current regulatory framework at WIPO for non-adoption of a budget prior to the beginning of a new financial period.

8. It observed that, despite Article 11(4)(e) of the WIPO Convention which states that: "If the budget is not adopted before the beginning of a new financial period, the budget shall be at the same level as the budget of the previous year, in accordance with the financial regulations", WIPO's Financial Regulations and Rules have no explicit provisions to deal with this situation, although they do cover the overall financial authority for allocations and for the management of these in respect of treaty obligations and operations of a continuing nature.

9. The implications are that, while the Administration may be given authority for a total amount under the WIPO Convention, the authority for making decisions on what new activities the budget may be spent on is not apparent.

10. The IAOC discussed this with the Assistant Director General for Administration and Management and the Director, Program Planning and Finance (Controller). It suggested that the Chair of the GA should be apprised of the implications, including the work plans that the Administration would be putting in place in the absence of a Program and Budget formally approved by Member States.

11. The IAOC recommends that the Secretariat should introduce an amendment to WIPO's Financial Regulations and Rules to supplement the provisions established in Article 11(4)(e) of the WIPO Convention regarding the scenario of non-approval of the budget prior to the beginning of a new financial period.

AGENDA ITEM 4: NEW CONSTRUCTION PROJECTS

12. The IAOC met with the Assistant Director General for Administration and Management and the Director of the Premises Infrastructure Division.

Secretariat Reporting to Member States

13. Pursuant to a decision taken by the Program and Budget at its 19th session (document A/50/14), the Secretariat provides monthly briefings on the New Construction Projects to Member States. The Secretariat reiterated that, in agreement with Member States, it had, as from August 2013, discontinued the practice of monthly oral briefings but continues its monthly posting of written reports on the secure New Construction Projects page on the WIPO's website.

New Conference Hall Project

14. The IAOC was briefed on progress on the New Conference Hall Project. The main points are summarized as follows:

- (a) The budget and provisions approved by Member States in 2009 and 2011 continue to be sufficient to absorb new commitments.
- (b) As at October 31, 2013, about 50 contracts had been awarded for a total amount of 47.5 million Swiss francs (95% of the construction cost). Some six contracts are still to be awarded, representing approximately 3 to 4 million Swiss francs (less than 5% of the total construction costs).

- (c) In September and October 2013, additional worksite-driven modifications had been awarded in the sum of approximately 90,000 Swiss francs, bringing the total amount for project modifications since July 2012 to some 880,000 Swiss francs.
- (d) In advance of project completion, a meeting room, a staff fitness room and a technical corridor had been delivered. More dedicated areas were expected to be delivered between March and April 2014.
- (e) The Secretariat was anticipating that, at this stage of construction and given the reinforced monitoring of the project, any foreseeable possible delays to the project timetable such as inclement weather would be in the magnitude of a few days only.
- (e) The project risk register had been updated in line with the increased need for coordination between certain actors at this stage of the project.

15. The IAOC sought additional information on the reported worksite-driven modifications as well as on processes and procedures for quality assurance and technical compliance with fire and other safety regulations. In this connection, it discussed with the Secretariat procedures and practices relating to municipal/cantonal/federal statutory inspections. The Committee expressed its wish to see at its next session the statutory inspection reports carried out during construction and, if need be, to discuss the reports with Management.

16. The Committee also had internal discussions regarding the current Secretariat practice of performing a quarterly review of the project risk registers. The IAOC advises that, at this stage of construction and closer to the finalization of the project, the risks should be assessed more frequently, for example, on a monthly basis.

New Administrative Building

17. The Secretariat briefed the IAOC on the current status of ongoing repair and replacement works and informed the Committee that there had been no change to the status information and on the financial situation as previously reported.

18. As regards cost of repair and replacement works on defects discovered after the July 2012 termination agreement between WIPO and the former general contractor, the Secretariat recalled that it had previously reported to the IAOC that the Administration had notified the former general contractor according to applicable Swiss legislation. The former general contractor had not yet agreed to advance the necessary funds to cover an additional estimated amount of some 400,000 Swiss francs. Consequently, WIPO may have to draw on the bank guarantee established for such defects. This matter was under consideration and IAOC plans to discuss it again at its next session. The Secretariat arranged for a worksite visit by the IAOC members after the presentation of the report on the projects.

Implementation of Audit Recommendations

19. Regarding the status of implementation of recommendations contained in IAOD's internal audit report on the construction projects, the Secretariat informed the IAOC that five of the six recommendations had been closed subject to validation by IAOD. The deadline for closure of the remaining sixth recommendation is the end of December 2013.

AGENDA ITEM 5: INTERNAL AUDIT AND OVERSIGHT

20. The IAOC met with the Director of IAOD and Division members, namely the Head of the Internal Audit Section, the Head of the Investigation Section, and the Senior Evaluation Officer. The Head of the Evaluation Section sent regrets for his absence. The Assistant Director General for Administration and Management and the Director, Program Planning and Finance (Controller) participated for the discussions that are recorded in paragraph 28 below.

Internal Audit and Oversight Division

(i) Status of work

21. The Director, IAOD, presented a report on the status of implementation of IAOD's 2013 oversight plan, which is currently in progress and is expected to be completed as planned.

(ii) 2014 work plan

22. The Director, IAOD presented IAOD's proposed 2014 work plan prepared by IAOD within the framework of the Secretariat's annual work planning. The plan includes a description of activities that IAOD envisages implementing in 2014 and which will contribute to achievement of its expected results as measured by the performance indicators contained in the proposed Program and Budget for the 2014/15 biennium. A more detailed oversight plan for 2014, which is currently being prepared using a risk-based assessment and with input from senior management and Member States, is expected to be finalized by mid-December. The IAOC will review the detailed plan at its next session.

(iii) IAOD Staffing

23. The Director, IAOD informed the IAOC that a second senior investigation officer (temporary) had been recruited and that IAOD continues to remain fully staffed.

(iv) Revisions to the Internal Oversight Charter

24. The Director, IAOD presented proposed revisions to the Internal Oversight Charter (IOC). The IAOC welcomed IAOD's proposed revisions. It sought clarifications and made suggestions for drafting improvements. It was agreed that IAOD would prepare a revised draft for review by the IAOC at its next session, which will include the following changes among others:

- a new section on "Conflict of Interest", which retains the current IOC provisions and adds new provisions to address current gaps for dealing with allegations of misconduct against IAOD staff, the Director of IAOD, and the Director General;
- public access to IAOD audit and evaluation reports on WIPO's website; and,
- a provision for the IAOC to record its assessment of the Director, IAOD's program delivery.

Internal Audit

25. The Director, IAOD presented two internal audit reports on the Madrid and the Hague Systems (Revenue Generation process) and on Management of Funds-in-Trust (FITs).

26. The IAOC commended IAOD for the quality of the reports.

27. The Committee noted that detailed action plans had not been prepared in response to all recommendations and sought information on the practices and procedures for action plan

preparation. It was advised that Management was required to submit plans within ten days. A general discussion on action plan preparation followed, in which the Assistant Director General for Administration and Management and the Director, Program Planning and Finance (Controller) participated. Both IAOD and Management underlined the importance that they attach to dialogue as part of this process. It was also observed that, depending on the scope of the audit and the level of cross-sectoral issues involved, detailed action plans could sometimes take longer than ten days to prepare. IAOC plans to review these two internal audit reports again at its next session, including the expected action plans.

28. The Committee recommends the Secretariat to streamline the process by which Management action plans are included in the audit reports, within the stipulated timeframe, including as a minimum an outline of action proposed and an indication of a possible timeline for implementation.

29. The IAOC also discussed that, in future and as a matter of regular practice, when audit and evaluation reports are presented to the IAOC, the main recipients of the reports will be invited to present and discuss with IAOC the results of the report, and in particular the respective actions plans, when appropriate.

Evaluation

30. IAOD presented an evaluation report on Program 1 (Patent Law). The IAOC noted that this was the first evaluation report on WIPO's normative work. It discussed with IAOD the methods used, which it observed were well in line with good and widely accepted standards. The IAOC plans to consider this evaluation report again at its next session, including the expected action plans.

Investigation

31. The IAOD briefed the Committee on its current caseload. The IAOC also reviewed technical revisions to the WIPO Investigation Policy (1st edition) and to the WIPO Investigation Procedures Manual (2nd edition) proposed by IAOD pursuant to revisions to the WIPO Staff Regulations and Rules as contained in document WO/CC/67/3.

32. In accordance with paragraph 5 of the IOC, the Director of IAOD sought the IAOC's advice on a possible case of conflict of interest.

AGENDA ITEM 6: FOLLOW-UP ON OVERSIGHT RECOMMENDATIONS

33. The IAOC discussed with the Assistant Director General for Administration and Management current arrangements for follow-up of JIU recommendations (see paragraph 5 above). The IAOC will decide on modalities and periodicity of its follow-up on JIU recommendations at its next session.

AGENDA ITEM 7: ASSESSMENT OF THE WORK OF THE IAOC

34. The IAOC initiated an assessment of its work at the present session. It informed the Director General and the Assistant Director General for Administration and Management of the assessment exercise and invited Management to provide feedback. The Committee will continue with the assessment exercise at its next session.

AGENDA ITEM 8: ELECTION OF A CHAIR AND VICE CHAIR

35. In line with Article II of its Rules of Procedure, the Committee elected a Chair and Vice Chair to serve for one year, renewable, from January 1, 2014. The IAOC re-elected Mr. Fernando Nikitin as Chair and Mrs. Mary Ncube as Vice Chair.

AGENDA ITEM 9: INFORMATION SESSION FOR MEMBER STATES

36. An Information Session for Member States was held, which was attended by 12 Member States' representatives.

37. The IAOC briefed the representatives on the present session and invited feedback from Member States on its ongoing IAOC assessment exercise. In response to a request from a representative, the IAOC provided further details of the implications of its observations on the regulatory framework at WIPO governing non-adoption of a budget prior to the beginning of a new financial period (see paragraphs 7 to 11 above). Another representative suggested that the IAOC's proposed review of WIPO's Financial Regulations and Rules could be extended to include a review of provisions on the use of reserves.

38. The gratitude of Member States was expressed to the three departing members, Mr. Kjell Larsson, Mr. Ma Fang and Ms. Maria Beatriz Sanz Redrado, for their dedication and valuable contribution to the Organization through their service on the Committee.

AGENDA ITEM 10: OTHER MATTERS

External Audit

39. The IAOC approved Minutes prepared by the IAOC secretariat of a meeting that took place on August 26, 2013, between the External Auditor and the IAOC. The IAOC and the External Auditor have agreed to meet at the IAOC's next session.

Induction of New IAOC Members

40. The IAOC discussed an induction program for the three new IAOC members whose mandates will begin on February 1, 2014. It was agreed that the Secretariat will prepare a program similar to that provided in 2011, with certain additions including an invitation to the Chairs of the General Assembly Chair and the Program and Budget Committee to participate, if possible.

Next session

41. The next session will take place from Monday, March 17 to Friday, March 21, 2014. The session will primarily comprise an induction program for the three new IAOC members, followed by substantive discussions including on external audit, internal audit and oversight, the New Construction Projects and follow-up on oversight recommendations.

[Annex I follows]



WO/IAOC/31/1
ORIGINAL: ENGLISH
DATE: NOVEMBER 26, 2013

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AGENDA

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1. Adoption of the Agenda
2. Meeting with the Director General
3. Financial Regulations and Rules
4. New Construction Projects
5. Internal Audit and Oversight
6. Follow-up on Oversight Recommendations
7. Assessment of the Work of the IAOC
8. Election of Chair and Vice Chair
9. Information Session for Member States
10. Other Matters

[Annex II follows]

LIST OF DOCUMENTS

ITEM 1: ADOPTION OF THE AGENDA

WO/IAOC/31/1 Prov. Draft Agenda

AGENDA ITEM 3: NEW CONSTRUCTION PROJECTS

Quarterly Progress Report to the IAOC, dated November 2013

Monthly Report to Member States - August 2013

Monthly Report to Member States – October 2013

AGENDA ITEM 4: INTERNAL AUDIT AND OVERSIGHT

Internal Audit and Oversight Division:

2013 Oversight plan – Status of implementation November 2013

IAOD 2014 proposed work plan

Memorandum from Director, IAOD, to IAOC dated November 27, 2013 “Document [07] IAOD 2013 proposed work plan – Clarification”

Proposed revisions to WIPO’s Internal Oversight Charter

Internal Audit:

Internal Audit Report IA 2013/02 “Audit of Madrid and The Hague Systems (Revenue Generation Process)”

Internal Audit Report IA 2013/06 “Funds-in-Trust Managed by WIPO”

IAOD Teammate Manual and Guidelines (submitted in accordance with paragraph 13 c) of the Internal Oversight Charter)

Evaluation:

Evaluation Report EVAL 2012-03 Program 1 (Patent Law)

Investigation:

Overview of Investigation pending cases

Investigation Policy amended in line with revisions to the Staff Regulations and Rules

Investigation Procedures Manual amended in line with revisions to the Staff Regulations and Rules

A Framework for Investigating Allegations of Misconduct on the Part of Any Staff Member of an Investigative Office, dated October 3, 2013

AGENDA ITEM 5: FOLLOW-UP ON OVERSIGHT RECOMMENDATIONS

Extract from document WO/GA/43/22: General Assembly discussion and decision on Report on the Implementation of JIU Recommendations

Document WO/GA/43/19: Report on the Implementation of the Joint Inspection Unit Recommendations for the Review of WIPO Legislative Bodies

AGENDA ITEM 7: ASSESSMENT OF THE WORK OF THE IAOC

Effectiveness evaluation Questionnaire prepared by the IAOC

AGENDA ITEM 8: OTHER MATTERS

Induction for New Members:

Background document: WO/IAOC/20/2 Report of the 20th session of the IAOC (Induction Session)

External Audit:

Draft Minutes of Meeting with the External Auditor on August 26, 2013

Other Documents

WO/CC/67/3 “Revision of the Staff Regulations and Rules”, dated September 16, 2013, as adopted by the WIPO Coordination Committee in 2013

Extracts from the Draft Report of the Forty-Third (21st Ordinary) Session of the WIPO General Assembly: The Report of the IAOC, Annual Summary Report of the Director of IAOD and the Report of the External Auditor.

List of Decisions taken at the Fifty-first Series of Meetings of the Assemblies of the Member States of WIPO

Fifty-second Series of Meetings of the Assemblies of the Member States of WIPO:

A/52/1 Prov. 3 Draft Annotated Agenda

A/52/2 Proposal by the Group of Latin American and the Caribbean Countries (GRULAC) relating to Program 20 of the proposed Program and Budget for the 2014/15 Biennium

A/52/3 Proposal by China relating to “General Policies of WIPO concerning Governance of External Offices”

WO/GA/44/1 Proposal by Group B relating to “Decision by the General Assembly in relation to the Coordination Committee Decision on External Offices taken during its Sixty-seventh (44th Ordinary) Session”

[End of Annex II and of document]