External Quality Review
WIPO Investigation Function
19-23 October 2015, Geneva, Switzerland
EXECUTIVE SUMMARY

The External Quality Assessment (EQA) team was constituted to (1) assess the investigative function’s conformity to the standards set forth in the Uniform Guidelines for Investigations endorsed by the Conference of International Investigators (CII) in June 2009 and the WIPO Internal Oversight Charter and Investigation Policy (altogether, the Standards) and (2) identify opportunities to enhance the investigative function’s resource management, work processes and overall value to WIPO. The scope of the assessment was covering 50 investigation cases from 1 January 2014 to 30 June 2015 (18 months).

This report includes a number of recommendations made to improve the Investigation Function and therefore, increase the added-value of its work for the WIPO.

Reinforcing the Function: The Assessment Team recommends that the Function be reinforced by two fixed term positions: one Investigation Officer and one Investigation Assistant. This will equip the Function to deal with the increase in caseload and provide enough breathing space to develop and strengthen the Function as well as raise awareness within the organisation.

Strengthening the authority for third-party investigations: Standard provisions should be included in the contracts with third parties that they have an obligation to cooperate with an IOD audit/investigation.

Strengthen documenting procedures: All complaints received should be allocated a unique registration number and actions taken should be clearly stated.

Facilitating access to WIPO’s electronic mailboxes: The possibility for the Information Security Section (ISS), when duly authorized, to remotely and directly access WIPO’s electronic mailboxes on UNICC servers should be explored. This could potentially reduce the delay to access the information from days, and sometimes weeks, to hours.

Awareness raising: The Assessment Team encourages the IOD and Investigation Function to use its intranet page to publicise more extensively its functions and activities. Similarly, a deeper involvement of the Investigation Function in the WIPO’s induction training for new staff and in refresher sessions for existing staff would improve awareness of investigations and anti-fraud mechanisms.

Synergies: Periodical exchanges with HRMD and OLC should be established to strengthen mutual feed-back on quality and legality aspects.

The Assessment Team concluded that the Investigation Function of the WIPO generally conforms to the Standards. It operates on a solid and sound legal basis and discharges it function according to the Standards. The two main products of the Investigation function – Investigation Reports and Management Implication Reports – where reported by all accounts to be clear and fit for purpose therefore providing added value to the organisation.
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A. **BACKGROUND TO THE ASSESSMENT**

1. In 2009, the Internal Audit function of the Internal Oversight Division (IOD) was externally assessed. In 2014 the Internal Audit and Evaluation functions were both reviewed externally and it was decided that the Investigation function would have its first external quality assessment done in 2015\(^1\). The Terms of Reference for the Assessment Team are attached as Annex 1 of this report. The assessment had a limited scope in time covering activities that took place between 1 January 2014 and 30 June 2015 (18 months). The objectives of the assessment were to:

   a) Assess the investigative function's conformity to the standards set forth in the Uniform Guidelines for Investigations endorsed by the Conference of International Investigators (CII) in June 2009 (Annex 2 of this report) and the WIPO Internal Oversight Charter and Investigation Policy (altogether, the Standards); and
   b) Identify opportunities to enhance the investigative function's resource management, work processes and overall value to WIPO. This could be done through benchmarking the WIPO Investigation Function to similar UN and/or international organizations to the extent possible.

2. The Assessment had to be conducted in accordance with the General Principles for Reviews of CII Investigation Offices conducted by External Experts adopted by the CII in October 2014 (Annex 3 of this Report). In its conclusion the report had to include:

   a) A written opinion as to whether the internal investigative function, “generally conforms,” “partially conforms” or “does not conform” with the Standards;
   b) Recommendations for improvement; and,
   c) Identification of successful practices and value-added services.

3. The Assessment team comprises two staff members working in investigation offices, respectively belonging to the UNHCR and the EPO. Both investigation offices are regularly represented at the CII and operate with reference to the Uniform Guidelines for Investigation. Professional background and experience of the assessment team members are attached in Annex 5.

B. **METHODOLOGY**

4. The Assessment Team started the preparatory work in the second half of September 2015 with a desk review of background information on policies relevant to the WIPO Investigation function. Five days were spent (19-23 October) within WIPO to conduct 13 interviews with staff members of the investigative function at all levels, the Acting Director of Internal Oversight Division, a member of the IOD, representatives of the WIPO’s executive function and of the staff’s Council, and other relevant senior managers and actors within WIPO. Each interviewee was told that the

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\(^1\) Annual Report by the Acting Director of IOD to the Program and Budget Committee, WO/PBC/24/6, dated 14-7-2015.
matters under discussion were confidential and that the report would not contain any specific attribution to any individual interviewed.

5. The Assessment Team also reviewed on site all the operating processes and procedures, including templates, case documentation, reporting systems, investigations approach and security arrangements used by the Investigation function.

6. The Assessment Team also conducted an in-depth review of 10 of the 50 cases (20% of cases) falling within the prescribed time period as well as the five Management Implication Reports (100% of MIRs) produced during the same period. The sample selection reflected factors such as the nature of allegations, the complexity of the matter, the time taken to conduct the preliminary evaluations and investigations.

7. For comparison purposes, the Assessment Team referred to the recent overall benchmarking exercise presented at the Conference of International Investigators in Montreux in October 2015. The benchmarking data and recommendations of the Joint Inspection Unit’s report on the investigation function in the United Nation System (published in 2012) were also duly considered.

C. THE WIPO’S INTERNAL OVERSIGHT DIVISION (IOD)

C.1. Mission of the IOD

8. The IOD’s mission, as defined in the WIPO Internal Oversight Charter, is to examine and evaluate, in an independent manner, WIPO’s control and business systems and processes in order to identify good practices and to provide recommendations for improvement. IOD thus provides assurance as well as assistance to Management in the effective discharge of their responsibilities and the achievement of WIPO’s mission, goals and objectives. The IOD is composed of three functions: Audit, Evaluation and Investigation.

9. The objectives of IOD include:

   a) Identifying means for improving WIPO’s relevance, effectiveness, efficiency, and economy of the internal procedures and use of resources,
   b) Assessing whether cost-effective controls are in place, and
   c) Assessing compliance with WIPO’s Financial Regulations and Rules, Staff Regulations and Rules, relevant General Assembly decisions, the applicable accounting standards, the Standards of Conduct for the International Civil Service, as well as good practice.

C.2. The IOD’s Investigative Function

10. The WIPO Internal Oversight Charter defines investigation as a formal fact-finding inquiry to examine allegations of misconduct and other wrongdoing in order to determine whether they have occurred and if so, the person or persons responsible.
11. The Investigation function is currently composed of a Head of Investigations (P-5) and a Senior Investigator (P-4) assisted by a temporary Secretary (G-4).

D. INVESTIGATION POLICIES AND PROCEDURES (LEGAL FRAMEWORK)

12. The assessment team reviewed the policy framework of the WIPO investigative function to confirm their adequacy to fulfill its mandate. As per the WIPO Internal Oversight Charter\(^2\) investigations in WIPO shall be carried out in accordance with the Uniform Guidelines for Investigations endorsed by the Conference of International Investigators and with WIPO’s regulations and rules. Of particular relevance are the WIPO Investigation Policy dated 22 January 2014\(^3\) and the Investigation Procedures Manual dated 22 January 2014.

13. The Investigation policy establishes the governing principles for the investigations within WIPO, and reaffirms the administrative nature of the process, which is “a fact finding exercise, not a punitive undertaking” and is separate from a disciplinary action.\(^4\) Disciplinary measures and proceeding are regulated under Chapter X of WIPO’s Staff Regulations and Rules.

14. As per the above policy, investigations are conducted under the overall authority and responsibility of the IOD Director and cover possible instances of misconduct and wrongdoing.

15. WIPO Staff Regulations 10.1 establishes that: “A staff member who fails to observe the Staff Regulations and Rules, the standards of conduct required of an international civil servant or any other obligation of staff members of the International Bureau may be subject to disciplinary measures”. References to misconduct and serious misconduct are further to be found in Staff Rules, e.g. Regulation 1.5., Rule 10.1.4.

16. The Investigation Procedures Manual\(^5\) summarizes comprehensively the definition of misconduct as: “The failure by a staff member to observe the rules of conduct or the standards of behavior prescribed by the WIPO Staff Regulations and Rules, Financial Regulations and Rules, Office Instructions, Standards of Conduct for the International Civil Service, and other relevant administrative issuances .... Such a failure could be deliberate (intentional, or willful act), or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness)”.

17. Regarding the scope of the policy, areas governed by other separate provisions are not included, namely work-place related conflicts and grievances, personnel grievances arising from administrative decisions affecting an appointment or performance issues. Complaints of harassment or retaliation are reported to IOD, as needed for formal investigation, respectively via HRMD (Human Resources management Department) and the Ethics Office. The Assessment Team confirms

\(^2\) WIPO Financial Regulations and Rules, Annex I, Art. 8
\(^3\) IAOD/IP/2014
\(^4\) WIPO Investigation policy, IAOD/IP/2014, paragraph 11.
\(^5\) IAOD/IPM/V2/2014, paragraph 14.
that it is indeed a good practice, particularly in cases of alleged harassment, to first attempt an informal conflict resolution, as per WIPO Staff Regulation 11.3.

18. As per rule 11.4.1 of Staff regulations, in case of a formal conflict, the Director of HRMD shall, where deemed necessary, refer a complaint for an independent investigation, and this is normally applied. On this aspect, it should be noted that the JIU recommended⁶ that all investigations be consolidated in the internal oversight entity. The underlying reasoning being that no other entity but the appropriate internal oversight function should be conducting investigations. The JIU specifically emphasized the fact that it was the view of staff that everyone should be treated equally and face the same investigation standards.⁷

19. The assessment team recognises that when informal mechanisms fail to resolve certain matters, according to best practice, they should be sorted out by IOD or, at least, in consultation with IOD. This is further reinforced by the duty of all WIPO’s staff members to report possible misconduct to the Director IOD. This obligation is referred to in the investigation policy,⁸ as well as in other relevant WIPO provisions such as the policy preventing and deterring corruption, fraud, collusion, coercion, money laundering and the financing of terrorism and in the whistleblower protection policy.

20. Allegations concerning the Director General are regulated under the Section “Conflict of Interest” of the IOD Charter.⁹ In such cases the Director IOD shall seek the advice of the IAOC on how to proceed further, e.g. via an independent investigation. The Assessment Team considers this mechanism as fully adequate to avoid any perceived conflict of interest. The Investigation Policy, at paragraph 34, further establishes that in such cases: “the final report shall be submitted by the Director IOD to the Chair of the WIPO Assemblies, and copied to the Chairs of the Coordination Committee and the IAOC and to the External Auditors”. This arrangement at the WIPO was regarded by the JIU in its report 2011 as best practice in the UN system.¹⁰

21. The assessment team reviewed the Investigation Procedures Manual issued in January 2014 superseding the first edition of 2010. The Manual is intended as a practical guide for the conduct of investigations and as a prime source of information for WIPO staff and member states. WIPO regulations and rules prevail on the Manual, should any inconsistency arise. The Assessment Team considered the manual as a thorough and consistent text. Some minor remarks were discussed with IOD Acting Director and the Head of Investigations. Other possible more

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⁷ JIU report 2011 on the investigation function in the UN, p.13. They are concerned, as are the inspectors, that investigations conducted by non-professional investigators and/or entities which are not independent but are part of management, can result in conflicts of interest, information not being handled properly, an uneven application of standards, and problems with due process, as well as cases being “dropped” or taking undue time to complete.
⁸ WIPO Investigation policy, IAOD/IP/2014, paragraph 12.
⁹ Paragraph 21 states: “Allegations of misconduct against the Director General shall be reported by the Director, IOD to the Chair of the General Assembly with a copy to the Chairs of the Coordination Committee and the IAOC. The Director, IOD shall seek the advice of the IAOC on how to proceed further.
¹⁰ JIU report on the investigations function in the UN system, paragraph 36.
¹¹ IAOD/IPM/V2/2014, paragraph 3.
substantive improvements are considered in the below paragraphs on the functioning of the Investigative Function.

22. Based on the above analysis, it is considered that the investigation policy and procedure documents constitute an adequate basis for the WIPO investigative functions to fulfil its mandate in conformity to the standards set forth in the Uniform Guidelines for Investigations endorsed by the Conference of International Investigators (CII) in June 2009.

E. THE INVESTIGATION FUNCTION

E.1. Independence

23. The Assessment Team believes that appropriate safeguards are in place to guarantee the functional and operational independence of the IOD Director. In this regard, the regular communication with, and the support of, the Independent Advisory Oversight Committee (IAOC) is fundamental.

E.2. Scope of Investigations

24. It can be argued from the Internal Oversight Charter (the Charter) that the IOD has authority to conduct investigations involving third parties based on the following:

   a) Paragraph 13 of the Internal Oversight Charter (the Charter) provides that “For the performance of his/her duties, the Director, IOD shall have unrestricted, unlimited, direct and prompt access to all WIPO (...) officials or personnel holding any WIPO contractual status (…)” (emphasis added); and

   b) More generally, paragraph 10 of the Charter provides: “The Director, IOD (...) has the authority to initiate, carry out and report on any action which he/she considers necessary to fulfil his mandate” (emphasis added). This mandate includes, according to paragraph 9 of the Charter, “(a) Identifying means for improving WIPO’s relevance, effectiveness, efficiency, and economy of the internal procedures and use of resources, (b) Assessing whether cost-effective controls are in place, and (c) Assessing compliance with WIPO’s Financial Regulations and Rules, Staff Regulations and Rules, relevant General Assembly decisions, the applicable accounting standards, the Standards of Conduct for the International Civil Service, as well as good practice” (emphasis added).

25. However, the Assessment Team believes that more clarity could be given to the authority of IOD to investigate cases involving third parties, in light of the Uniform Guidelines for investigations.12

12 See in particular paragraphs 16 and 24.
RECOMMENDATION 1

Standard provisions should be included in the contracts with third parties that they have an obligation to cooperate with an IOD audit/investigation.

E.3. Standard of proof

26. Any disciplinary sanctioned WIPO staff member can appeal the sanction to the International Labour Organisation Appeal Tribunal (ILOAT). The standard of proof for the ILOAT is normally “clear and convincing” evidence except for cases that resulted in dismissal of the staff member which is normally expected to be of the “beyond reasonable doubt” level. WIPO’s staff rule 10.1.2 (f) states that: “In disciplinary proceedings, the burden of proof for alleged misconduct shall lie with the International Bureau and the standard of proof shall be clear and convincing evidence”. The investigation function is meeting the required standard of “clear and convincing” evidence in its substantiated cases and striving to reach the “beyond reasonable doubt” level in cases which could potentially lead to dismissal.

27. However, the Investigation Procedures Manual at paragraph 86 states that the minimum standard of proof should be the preponderance of evidence (“more probable than not”) which is a lower standard than “clear and convincing”.

RECOMMENDATION 2

The standard of proof in the Investigation Procedures Manual should be harmonized with the standard of “clear and convincing” evidence mentioned in the WIPO Staff Rules.

E.4. Case Documentation System

28. The Investigation function uses a dual case documentation system: electronic and hardcopy. The primary system is the electronic one. All relevant documents (including originals) are scanned and stored on a confidential and secured network drive. Every investigation has a folder organized with standardized sub-folders. The function is in the process of moving away from hard copy files containing print-outs of every relevant document. New hard copy files will now consist primarily of original documents with a copy of the preliminary evaluation report and final investigation report if applicable.

29. It is good practice to move away from hard copy files and store all relevant documents electronically on a backed-up and secured network. The Assessment Team encourages the Investigation function to reduce as much as possible their hard copy files which should only contain original documents. This practice not only reduces costs but simplifies the physical archiving.
E.5. Reception of allegation

30. The Assessment Team found that the Investigation function is maintaining a separate list of “non-cases” which are requests or allegations received that were evidently outside the mandate and responsibilities of the function (for example requests that were transferred to other departments best placed to answer). Although these communications do not fall within the purview of the Investigation function, they should nonetheless be recorded with an indication of the action taken. This is important to ensure that the Investigation function can always explain what happened to every communication received but also since time and resources were spent on examining and dealing with them, they should be statistically counted, for the sake of transparency and to fully reflect the workload.

RECOMMENDATION 3

The Investigation function should allocate a unique registration number to all requests and allegations received and clearly state actions taken.

E.6. Investigation methodology

31. It was explained to the Assessment Team that once an allegation is received by the Investigation Function, a preliminary investigation is opened. It has the objective of establishing if the allegation(s) warrant a full investigation by assessing if: (1) prima facie the allegation(s), if established, would amount to misconduct; (2) the matter falls within the purview of IOD/Investigation (also to assess whether there are alternative ways to deal with the complaints); (3) it is material; (4) it is verifiable; and, (5) it is credible. The preliminary evaluation should be conducted within 60 working days.

32. The preliminary evaluation report is then submitted for approval to the Director IOD with an investigation plan for the full investigation. When approved, a full investigation is conducted and results in an investigation report.

E.6.1. Preliminary Evaluation and Investigation Work Plan

33. In reality, the preliminary investigations reviewed/discussed by the Assessment Team consisted of a significant part of the investigative steps that would normally have been taken during a full investigation. Some preliminary evaluation reports totalled more than 30 pages attesting to the extent of the evaluation. In some cases, it only stopped short of the Subject interview which should be the last phase of a full investigation. It is the opinion of the Assessment Team that preliminary evaluations should be much shorter so as to have an investigation plan prepared and approved before starting substantial investigative activities.

RECOMMENDATION 4

The preliminary evaluation should consist of a limited number of fact finding actions needed to gather information showing that the allegation is prima facie relevant, material, verifiable and
credible, this step would then be followed by an Investigation Plan necessary to further proceed with substantial investigative activities.

E.6.2. Evidence handling

34. The majority of cases investigated required ICT evidence. The Investigation function benefits from the professional ICT forensic services of the Information Security Section (ISS) for the acquisition and analysis of ICT evidence. However, when examination of official electronic mailboxes is required, the reaction time of the ISS is dependent on the response by the external information holder, namely the UN International Computing Centre (UNICC) whose servers house WIPO’s electronic data. Currently, when duly authorized, ISS needs to make a request to obtain specific mailboxes from UNICC. The delay can sometimes be counted in weeks before the information is received from UNICC enabling forensic searches by ISS. The Assessment Team believes that the reaction time of UNICC is an unnecessary delay in the investigation process.

35. The investigations procedure manual describes in detail the process for gathering information from electronic records, which is normally conducted with the support of the Head of ISS. Only the Head of ISS and another technical expert assisting him are in charge of assisting requests from the IOD. According to the information received from ISS, the chain of custody and the systems for securing evidence forensically are in place, but the process of securing and retaining evidence within ISS has not been formally described.

RECOMMENDATIONS 5 and 6

5) The possibility for ISS, when duly authorized, to remotely and directly access WIPO’s electronic mailboxes on UNICC servers should be explored. This could potentially reduce the delay to access the information from days, and sometimes weeks, to hours.

6) The process of securing and retaining electronic evidence within ISS should be described in writing and formalised in agreement with IOD.

E.6.3. Reporting

36. It was consistently confirmed to the Assessment Team, by relevant actors within WIPO, that the reports produced by the Investigation function were of high quality and fit for purpose. This is evidenced by the fact that during the evaluation period, the Investigation function submitted four investigation reports recommending appropriate sanctions be taken. Three of the report resulted in disciplinary sanction and for the fourth one, the staff member concerned was separated from the organisation before disciplinary process could be initiated.
E.7. Caseload

The number of cases opened has increased to reach 26 per year for the past two years.

Note: Calculated on 30 June of every year.

The following table summarizes the cases that fell within the scope of this assessment.

<table>
<thead>
<tr>
<th>Case Category</th>
<th>Status of Cases</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Closed PE</td>
<td>PE</td>
</tr>
<tr>
<td>Abuse of work time</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Benefits and entitlements fraud</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Harassment/Discrimination/Abuse of Authority</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Irregular HR practices</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Misuse of ICT resources</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Other fraudulent, corrupt or abusive practices</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Statements, pronouncements and activities</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>incompatible with the obligations of an international civil servant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unauthorized communication of information</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Wrongdoing by candidate during recruitment selection process</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Grand Total</td>
<td>27</td>
<td>8</td>
</tr>
</tbody>
</table>
E.8. Resources of the Service

E.8.1. Financial

39. The financial resources available to the Investigation function were deemed adequate by all queried. There were also sufficient funds available to hire external consultants when required.

E.8.2. Human

40. Currently the function is staffed by the Head of Investigation (P-5 – fixed-term contract) and a Senior Investigator (P-4– permanent contract) assisted by a Secretary (G-4 – temporary contract). It was said to the Assessment Team that the Investigation function is “keeping its head above water” but does not have the human resources or time to develop and strengthen itself. With 26 new cases per year for 2014 and 2015 (calculated from June to June), the Head of Investigation was required to work full time on investigation cases which left him with very limited time to work on other important matters such as: (1) developing and strengthening procedures, processes, templates, etc.; (2) formulate and conduct pro-active investigations; or, (3) raise awareness within the organisation.

41. The Joint Inspection Unit (JIU) recommended that UN organisations should have one investigator per 700 staff members.\(^1\) Based on a recent benchmarking exercise presented at the Conference of International Investigators, the Assessment Team believes that investigators should ideally have a maximum of 5-7 cases each at any given time.\(^2\) With a generally accepted average case length of 6 months in most UN organisations, this would mean that an average investigator would complete 10 to 14 investigations per year. On this basis, WIPO should have two investigators spending the majority of their time conducting investigations in addition to a Head of Investigation who would only take a limited number of cases in order to have the necessary time to develop and strengthen the function as well as raise awareness within WIPO.

42. The fact that the Investigation function had to use the services of consultants due to resource constraints is proof that the function has difficulty coping, in a timely manner, with an increase in caseload.

<table>
<thead>
<tr>
<th>Nb cases</th>
<th>2014 - Cost</th>
<th>2015 - Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resource constraint</td>
<td>6</td>
<td>0</td>
<td>CHF 78,133</td>
</tr>
</tbody>
</table>

43. Although the punctual use of external consultant investigators is a regular practice amongst UN organisations to deal with unforeseen substantial increase in caseload or in cases complexity, it comes with a number of challenges and should not be considered a long-term solution.

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\(^2\) A World Bank benchmarking exercise conducted in 2015 and presented at the Conference of International Investigators in Montreux, Switzerland in September 2015 established an average of 5.5 cases per investigator at any given time for United Nations and International Organizations.
to a resource problem. External consultants are not necessarily aware of the specificities of the organisation and do not have a thorough knowledge of the organisational structure enabling them to efficiently search for the relevant information. This makes it necessary for the Head of Investigation or for the Senior Investigator to spend considerable time coaching and guiding the external consultant(s). It also requires frequent monitoring to ensure quality and respect of deadlines. These disadvantages would be addressed by having another fixed-term investigator position within the Investigation function.

44. Furthermore, having another investigator would provide for easier compliance with the recommendation made in the Uniform Principles and Guidelines for Investigations that, to the extent possible, investigative interviews should be conducted by two persons. At the moment, only subject interviews are conducted by two IOD staff members.

45. The Assessment Team also found that having an administrative support in the form of a temporary Secretary at the G-4 level was not optimum. De facto, the Secretary plays an important role as institutional memory and as administrative backbone guaranteeing the smooth processing of cases and files. In addition, the Secretary has access to confidential materials and having such a person on 6 months contract, like the current incumbent, is a risk for both efficiency and confidentiality.

**RECOMMENDATIONS 7 and 8**

7) The Investigation Function should be reinforced by one full-time fixed term Investigation Officer; and,

8) The current position of temporary Secretary should be upgraded to a position of full-time and fixed-term Investigation Assistant.

**E.8.3. Facilities**

46. The Assessment Team was able to visit the offices of the Head of Function, the Senior Investigator, the Secretary and the external consultant investigator as well as the two rooms used by the Function for storing archives. The rooms were adequate in terms of security and were reported as sufficient by all concerned.

**E.9. Use of consultants in cases of potential conflict of interest**

47. During the time under review, the IOD has devoted a considerable amount of its financial resources to hiring external support in order to deal with three cases that could potentially constitute a conflict of interest.

<table>
<thead>
<tr>
<th>Nb cases</th>
<th>2014 - Cost</th>
<th>2015 - Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict of Interest</td>
<td>3</td>
<td>CHF 59,212</td>
<td>CHF 84,000</td>
</tr>
</tbody>
</table>
48. The Assessment Team has discussed, at length, the subject of potential conflict of interest with the Acting Director IOD and the Head of Investigation and agreed with them that the three cases in question had to be referred externally to avoid any potential or perceived conflict of interest. The IOD and Investigation function are encouraged to pursue the policy of externally referring cases that could constitute potential or perceived conflict of interest.

E.10. Investigation timespan

49. The Investigation Policy stipulates that upon receipt of a report of possible misconduct, IOD will endeavour to conduct a preliminary evaluation within 60 working days (3 months) and submit a final investigation report within four months of the date of initiating a full investigation. This means that from the time a report of possible misconduct is received, assuming it becomes a full investigation, the Investigation function will endeavour to submit a final investigation report within seven months.

<table>
<thead>
<tr>
<th>Preliminary evaluation</th>
<th>Full investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 cases in the scope of the review</td>
<td>62% exceeded 60 days</td>
</tr>
</tbody>
</table>

50. The Assessment Team examined the justifications for these delays and noted that they were normally due to the above mentioned workload issue, too many investigation activities conducted at the preliminary evaluation stage or, for the full investigations, circumstances outside the control of the Investigation function such as: subjects on extended medical leave or cases transferred to external parties due to potential conflict of interest. In particular, as reported in the summary annual report 2014 of the Director IOD\(^\text{16}\), “some staff members refused to be interviewed on medical grounds – using ad hoc medical certificates”; according to the 2015 annual report, six staff members denied an interview request by IOD on medical grounds, so that eight inquiry cases were put de facto on hold. This trend is significantly unusual and has an evident impact on the timeliness of cases. The WIPO relies in these circumstances on the external medical services of the UN, which implies often a relatively cumbersome process. It is important that these cases should be fully documented to clearly explain the delays.

**RECOMMENDATION 9**

Possible mechanisms should be explored with the support of HR to effectively tackle the issue of the increasing number of denials of invitation to interviews on medical grounds.

\(^{15}\) This means that 10 of the 15 cases that resulted in a full investigation lasted longer than 4 months.

\(^{16}\) WO/PBC/22/4, paragraph 72.
F. **STAFF RIGHTS AND DUE PROCESS**

51. The assessment team examined the investigative procedures and practice concerning staff rights and due process safeguards. The WIPO investigation policy and the manual provide an exhaustive and wide set of rights to the parties involved in an investigation, according to the principles of fairness, objectivity, impartiality, to an extent even partly exceeding the guarantees usually applied in administrative fact finding exercises in the UN system.

52. For the witnesses and the complainants, specific rules on protection against retaliation are in force (see whistle-blower protection policy), as well as the right to confidentiality. Regarding the subject, the principles of presumption of innocence is strictly considered, as well as the right to respond in two stages, during interview(s) and when receiving the relevant excerpts of the draft investigation reports for comments; an observer is allowed during interviews; interviews are audio recorded and the subject is given the opportunity to comment.

53. The duty for staff to report suspected acts of wrongdoing and forms of misconduct, as well as the requirement for staff to cooperate with an investigation and to answer questions and comply with requests for information fully reflect the Uniform Guidelines for investigations of the CII.

54. The review of the sample cases by the assessment team confirmed that the above mentioned safeguards were consistently applied by the Investigation function.

55. The only remark of the assessment team refers to the provision of the manual of procedure, for which at the end of the investigative process the subject is notified by the Director IOD and informed of the outcome and recommendations made. The assessment team considers that it would be sufficient, for the sake of fairness and of the integrity of further proceedings (such as referral to judicial authorities), to limit the information of the subject to the outcome of the investigation, i.e. the conclusions, and only in case that the allegations were unfounded/disproven to protect the integrity of possible further proceedings.

56. Recommendations are indeed subject to endorsement of the Director General, and should be communicated to the subject after the related decision is taken and without potentially jeopardising further proceedings, such as the initiation of a disciplinary proceeding or a referral to judicial authorities.

**RECOMMENDATION 10**

The subject should be informed about the outcome of an investigation only when allegations were not substantiated or unfounded. The manual should be adapted accordingly.

G. **PROFESSIONALIZATION OF STAFF AND INVESTIGATIVE TRAINING**

57. The Assessment Team reviewed the job specifications of those working in the Investigation function and confirms that in terms of qualifications and/or experience the staff members are
equipped with the necessary skills to conduct investigations according to the established professional standards and principles.

58. Training opportunities were offered and used by staff members on a regular basis, to a sufficient extent both in qualitative terms and in terms of number of days. The choice of the topics was oriented to the needs of the service and of the individual development of investigators: the topics in 2014 and 2015 ranged from Investigative Research Techniques to specialist training for Certified Fraud Examiner.

H. AWARENESS AND PERCEPTION OF INVESTIGATION FUNCTION

59. The External and Internal web pages about investigations at WIPO contain all documents to ensure a transparent and complete information to staff and external potential parties: the Uniform Guidelines for Investigations, the Investigation Policy, The Investigation Procedures Manual and the WIPO Internal Oversight Charter. The links to the ILOAT and the Association of Fraud Examiners webpages could be usefully completed with the addition of a link to the newly established website of the Conference of International Investigators.

60. The WIPO environment appears generally prone to a rigorous application of accountability mechanisms, as revealed e.g. by the results of the Fraud Risk Assessment in July 2014, for which according to 50% of respondents, sanctions are not imposed frequently or robustly enough against perpetrators found guilty of fraud or misconduct. The Assessment Team noted that the perception of the investigative function across the organisation is indeed generally positive. However the interviews with relevant actors indicated that certain aspects of investigation policies and mechanisms may appear unclear, despite the availability of a large volume of information as indicated above. This was mentioned in the Fraud Risk Assessment conducted by IOD in July 2014 indicating that the reporting mechanisms are not fully understood.

61. The comprehensive set of information in the Investigation function intranet page could be streamlined, e.g. if complemented by a summary presentation and introductory explanations on the webpage itself. Further communication measures such as a section “Frequently Asked Question” on the webpage, an information brochure describing concisely the basic aspects and mechanisms of the investigative process with examples, a direct link to the team, would improve clarity and accessibility of the responsibilities and procedures of the investigations function.

62. The external and internal webpages also provide the channels to report allegations of misconduct to the attention of the Director, IOD: by telephone, by email (hotline); or using a “wrongdoing reporting form”. Only two cases were referred to IOD between June 2014 and June 2015 through the hotline for reporting misconduct. The form is also used quite rarely, despite its potential benefit as a structured and simple set of questions facilitating both the complainant’s reporting and the investigators’ review.

17 Annual report by the director of the Internal Oversight Division (IOD), paragraph 34.
63. The survey conducted in 2014 in the context of the Fraud Risk Assessment indicated that 30% of staff were not aware of the consequences of committing fraud and 71% of staff responding to the survey stated that they had not attended any fraud awareness training. Actions have been partly taken by HRMD to increase anti-fraud awareness, such as publicising annually the outcome of the Internal Justice System following investigations. The Head of Investigations contributes to WIPO projects concerning fraud-related risks and/or disciplinary matters (for instance, WIPO’s projected “vendor sanctions regime”).

64. It is the opinion of the assessment team that investigators of IOD with the support of HRMD should be involved systematically in training sessions for newly recruited staff and refreshing sessions for existing staff members to promote awareness of investigations and anti-fraud mechanisms.

RECOMMENDATIONS 11 and 12

11) The Intranet Page of the Investigation Function could be expanded to include further elements of information, such as a “Frequently Asked Questions” section and an information brochure, in order to publicise more extensively its functions and activities, as well as rights and obligations of staff; and,

12) A deeper involvement of the investigation function in the training programmes for newly recruited and existing staff would improve awareness of investigations and anti-fraud mechanisms.

I. QUALITY AND LEGALITY CHECKS

65. According to Uniform Guidelines for Investigations of the CII, investigative activity and critical decisions should be documented in writing and reviewed by managers of the Investigation function. This would be part of a quality and legality check system.

66. Due to the fact that the investigative function only has one Senior Investigation Officer and a Head of Investigations, the latter has to assume a considerable part of the investigation caseload. The supervisory function of investigations is therefore shifted to the Director IOD, who would normally be expected to operate at a level above the operational management of the investigative function. Moreover, due to the staffing constraints, the investigation teams are often limited to one person, which may impact on the smooth and expeditious running of the cases.

67. Nevertheless, the Assessment Team found that the cases reviewed had been completed in accordance with high quality standards, as confirmed by the output of disciplinary cases. Meetings with HRDM and Legal services on closed cases or ILOAT pronouncements could be further developed to strengthen a mutual “feed-back loop” on quality and legality aspects without prejudice to the independence of the Investigation function.
RECOMMENDATION 13

Periodical exchanges with HRMD and OLC should be established to strengthen mutual feedback on quality and legality aspects.

J. **SYNERGIES BETWEEN SERVICES WITHIN IOD AND PROACTIVE INVESTIGATIONS**

68. Synergies between IOD services, Internal Audit, Evaluation and Investigation, allow for exchanges of information pertaining to the mutual areas of responsibilities, e.g. from the investigators toward auditors, by reporting possible systemic weakness in the internal controls, or vice versa from the auditors toward investigators by referring strong indications of wrongdoing/fraud.

69. The Assessment Team was informed that monthly meetings take place between the various services and that the audit plan and the investigation reports benefit from a mutual exchange of information. This exchange of information and expertise should be further encouraged to enhance the proactive initiation of investigations based on risks identified (e.g. Fraud Risk Assessment carried out in 2014), in line with WIPO Internal oversight Charter at paragraph 26.

K. **RELATIONSHIP OF THE INVESTIGATIVE FUNCTION TO IAOC**

70. The Investigation function, as part of IOD, is subject to the scrutiny of the external oversight bodies, which oversee and evaluate WIPO’s operations and activities, i.e. the External Auditor and specifically to the WIPO Independent Advisory Oversight Committee (IAOC).

71. The IOD provided regular feedback to IAOC on the functioning of the investigative function specifically by:

   a) regularly briefing IAOC (four times per year) on the status of ongoing investigation cases and their disposition;
   b) discussing management implication reports;
   c) meeting in private confidential session with the IAOC (at least twice a year);
   d) providing reports and preliminary evaluations as requested;
   e) requesting advice from IAOC on several cases of perceived conflict of interest situations;
   f) consulting the IAOC on the allocation of human and financial resources needed to ensure the functional and operational independence of IOD.

72. The Assessment Team, based on the review of relevant documents and interviews, confirms that IOD adequately informs the IAOC on the ongoing investigation activities and their results. The information to the IAOC could be extended to the outcome of disciplinary actions and
ILOAT pronouncements arising from investigations, as an indicator of quality and lessons learned. This would require regular inputs from HRMD and Legal Services.

L. CONCLUSION

73. The Assessment Team is of the opinion that the Investigation function generally conforms with the Standards. It operates on a solid and sound legal basis and discharges its function according to the Standards. The two main products of the Investigation function – investigation reports and Management Implication Reports – where reported by all accounts to be clear and fit for purpose therefore providing added value to the organisation.

74. The Assessment Team recommendations are the following:

1. Standard provisions should be included in the contracts with third parties that they have an obligation to cooperate with an IOD audit/investigation.
2. The standard of proof in the Investigation Procedures Manual should be harmonized with the standard of “clear and convincing” evidence mentioned in the WIPO Staff Rules.
3. The Investigation function should allocate a unique registration number to all requests and allegations received and clearly state actions taken.
4. The preliminary evaluation should consist of a limited number of fact finding actions needed to gather information showing that the allegation is prima facie relevant, material, verifiable and credible, this step would then be followed by an Investigation Plan necessary to further proceed with substantial investigative activities.
5. The possibility for ISS, when duly authorized, to remotely and directly access WIPO’s electronic mailboxes on UNICC servers should be explored. This could potentially reduce the delay to access the information from days, and sometimes weeks, to hours.
6. The process of securing and retaining electronic evidence within ISS should be described in writing and formalised in agreement with IOD.
7. The Investigation Function should be reinforced by one full-time fixed term Investigation Officer.
8. The current position of temporary Secretary should be upgraded to a position of full-time and fixed-term Investigation Assistant.
9. Possible mechanisms should be explored with the support of HR to effectively tackle the issue of the increasing number of denials of invitation to interviews on medical grounds.
10. The subject should be informed about the outcome of an investigation only when allegations were not substantiated or unfounded. The manual should be adapted accordingly.
11. The Intranet Page of the Investigation Function could be expanded to include further elements of information, such as a “Frequently Asked Questions” section and an information brochure, in order to publicise more extensively its functions and activities, as well as rights and obligations of staff.
12. A deeper involvement of the investigation function in the training programmes for newly recruited and existing staff would improve awareness of investigations and anti-fraud mechanisms.

13. Periodical exchanges with HRMD and OLC should be established to strengthen mutual feedback on quality and legality aspects.

M. **ANNEXES:**

1. Terms of Reference (TORs);
2. Uniform Principles and Guidelines for Investigations;
3. General Principles for Reviews of Investigation Offices Conducted by External Experts;
4. Documents reviewed; and,
5. Assessment Team members’ background.
ANNEX 1

TERMS OF REFERENCE (ToRs)
EXTERNAL QUALITY ASSESSMENT OF THE INVESTIGATION FUNCTION

Background

1. The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations, dedicated to developing a balanced and accessible international intellectual property system. WIPO’s nine strategic goals enable the organization to achieve its mandate effectively in an evolving external environment.

2. The Internal Oversight Division (IOD) at WIPO is an independent internal oversight body. IOD provides the Management of WIPO with systematic assurance, analyses, appraisals, recommendations, advice and information, through the undertaking of independent internal audits, evaluations and investigations.

3. IOD’s work is governed by the Internal Oversight Charter (the Charter) approved by the WIPO General Assembly. Paragraph 24 (f) of the Charter provides in particular that IOD should "Develop and maintain a quality assurance/improvement program covering all aspects of internal audit, evaluation and investigation, including periodic internal and external reviews and ongoing self-assessments in accordance with the applicable standards", and further that "independent external assessments shall be conducted at least once every five years".

4. In line with the above provisions, and considering that external quality assessments of IOD's internal audit evaluation functions were conducted in 2014, and IOD is currently seeking a qualified, independent reviewer or review team from outside the organization (the Reviewer) to conduct an external quality assessment of IOD’s investigative function (the Assignment).

Scope and Methodology

5. The Assignment will cover IOD's investigative activities for the period from January 1, 2014, through June 30, 2015.

6. The Reviewer shall:
   (a) Assess the investigative function's conformity to the standards set forth in the Uniform Guidelines for Investigations endorsed by the Conference of International Investigators (CII) in June 200918 and the WIPO Internal Oversight Charter19 and Investigation Policy20 (altogether, the Standards); and
   (b) Identify opportunities to enhance the investigative function’s resource management, work processes and overall value to WIPO. This could be done through benchmarking the WIPO Investigation Function to similar UN and/or international organizations to the extent possible.

7. The Assignment shall be conducted in accordance with the General Principles for Reviews of CII Investigation Offices conducted by External Experts adopted by the CII in October 2014.\(^\text{21}\)

**Profile**

8. The Assignment shall be conducted by qualified, experienced investigation professionals from intergovernmental organizations, preferably with previous experience in similar review exercises.

**Deliverables**

9. The review shall be confidential. The Reviewer shall prepare a written report upon completion of the Assignment (the Report), and address it to the Director, IOD. During the Assignment, IOD shall provide the Reviewer with all the information, records and documentation needed.

10. The Report shall include:
   (a) A written opinion as to whether the internal audit function, “generally conforms,” “partially conforms” or “does not conform” with the Standards.
   (b) Recommendations for improvement.
   (c) Identification of successful practices and value-added services.

**Timetable**

11. The external quality assessment shall be carried out between October 1 and 31, 2015 with a draft report being issued at the end of the fieldwork. The final report is expected to be issued by November 15, 2015.
ANNEX 2

CONFERENCE OF INTERNATIONAL INVESTIGATORS
UNIFORM PRINCIPLES AND GUIDELINES FOR INVESTIGATIONS

PREAMBLE

International Organizations and multilateral institutions ("Organizations") have engaged in reform efforts designed to promote accountability and transparency in their internal affairs and in dealing with parties external to the Organization. As a result of these efforts, Organizations have established internal offices with responsibility for the conduct of investigations. Towards that end, the participating investigative offices recognized the value of harmonizing their practices and, in April 2003, endorsed a set of guidelines – Uniform Guidelines for Investigations endorsed by the 4th Conference of International Investigators. In recognition of the necessity of continuing to improve investigative practices, the participating investigative offices have reviewed the original Uniform Guidelines for Investigations and produced these revised Principles and Guidelines for Investigations.

These Principles and Guidelines are intended to be used as guidance in the conduct of investigations subject to the, regulations, rules, policies and the privileges and immunities applicable in each organization.

They do not and are not intended to bind the Organizations or confer, impose or imply any duties, obligations or rights actionable in a court of law or in administrative proceedings on the Organizations. Nothing in the Principles and Guidelines should be interpreted as affecting the rights and obligations of each organization per its rules, policies and procedures, nor the privileges and immunities afforded to each organization by international treaty, customary international law and the laws of the respective member state.

For the purpose of this document, use of the term "Organization" includes reference to all institutions participating in the Conference. The investigative units of each organization are hereinafter referred to as the "Investigative Office."

In particular, the Conference recognizes that the exchange of information among Organizations is intended to promote enhanced cooperation in addressing integrity issues in their activities. The Conference also notes that it is critical to ensure that the confidentiality of information be maintained so that, among other things, whistleblowers and others remain confident in their ability to communicate with Organizations.

The Conference also acknowledges the need for Investigative Offices to periodically undergo an external quality assessment in order to ascertain their conformity with the Organization’s legal framework and generally accepted investigation standards and to promote continuous enhancement of the investigation function.
GENERAL PRINCIPLES

1. Each Organization shall have an Investigative Office responsible for conducting investigations.

2. The purpose of an investigation by the Investigative Office is to examine and determine the veracity of allegations\(^1\) of corrupt or fraudulent practices as defined by each institution including with respect to, but not limited to, projects financed\(^2\) by the Organization, and allegations of Misconduct on the part of the Organization’s staff members.\(^3\)

3. The Investigative Office shall maintain objectivity, impartiality, and fairness throughout the investigative process and conduct its activities competently and with the highest levels of integrity. In particular, the Investigative Office shall perform its duties independently from those responsible for or involved in operational activities and from staff members liable to be subject of investigations and shall also be free from improper influence and fear of retaliation.

4. The staff of the Investigative Office shall disclose to a supervisor in a timely fashion any actual or potential conflicts of interest he or she may have in an investigation in which he or she is participating, and the supervisor shall take appropriate action to remedy the conflict.

5. Appropriate procedures shall be put in place to investigate allegations of Misconduct on the part of any staff member of an Investigative Office.

6. Each Organization shall publish the mandate and/or terms of reference of its Investigative Office as well as an annual report highlighting the integrity and anti-fraud and corruption activities of its Investigative Office in accordance with its policies on the disclosure of information.

7. The Investigative Office shall take reasonable measures to protect as confidential any non-public information associated with an investigation, including the identity of parties that are the subject of the investigation and of parties providing testimony or evidence. The manner in which all information is held and made available to parties within each Organization or parties outside of the Organization, including national authorities, is subject to the Organization’s rules, policies and procedures.

8. Investigative findings shall be based on facts and related analysis, which may include reasonable inferences.

9. The Investigative Office shall make recommendations, as appropriate, to the Organization’s management that are derived from its investigative findings.

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\(^1\) This may include indicators of fraud or corruption.
\(^2\) This may be applicable to projects executed or implemented by the Organization.
\(^3\) Organizations may also include allegations of misconduct by vendors providing goods and services to their Organization as part of their investigatory purpose.
10. All investigations conducted by the Investigative Office are administrative in nature.\textsuperscript{4}

**DEFINITIONS**

11. Misconduct is a failure by a staff member to observe the rules of conduct or the standards of behavior prescribed by the Organization.\textsuperscript{5}

12. The Standard of Proof that shall be used to determine whether a complaint is substantiated is defined for the purposes of an investigation as information that, as a whole, shows that something is more probable than not.\textsuperscript{6}

**RIGHTS AND OBLIGATIONS**

*Witnesses and subjects*

13. A staff member who qualifies as a “whistleblower” under the rules, policies and procedures of the Organization shall not be subjected to retaliation by the Organization.\textsuperscript{7} The Organization will treat retaliation as a separate act of Misconduct.

14. The Organization may require staff to report suspected acts of fraud, corruption, and other forms of Misconduct.

15. The Organization shall require staff to cooperate with an investigation and to answer questions and comply with requests for information.

16. Each Organization should adopt rules, policies and procedures and, to the extent that it is legally and commercially possible, include in its contracts with third parties, provisions that parties involved in the investigative process shall cooperate with an investigation.

17. As part of the investigative process, the subject of an investigation shall be given an opportunity to explain his or her conduct and present information on his or her behalf. The determination of when such opportunity is provided to the subject is regulated by the rules, policies and procedures of the Organization.

\textsuperscript{4} Where fraud is involved, the Investigative Office may assist the responsible national authorities by providing expert advice, support and resources during the course of criminal investigations where appropriate and where mutually agreed.

\textsuperscript{5} The Organisations of the United Nations system have defined misconduct as “failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant” (Staff Rule 110.1).

\textsuperscript{6} Based on the jurisprudence of the United Nations Administrative Tribunal (UNAT) the standard should be reasonable conclusions supported by adequate evidence.

\textsuperscript{7} Or by any staff member of the Organization.
Investigative Office

18. The Investigative Office should conduct the investigation expeditiously within the constraints of available resources.

19. The Investigative Office should examine both inculpatory and exculpatory information.

20. The Investigative Office shall maintain and keep secure an adequate record of the investigation and the information collected.

21. The staff of the Investigative Office shall take appropriate measures to prevent unauthorized disclosure of investigatory information.

22. The Investigative Office shall document its investigative findings and conclusions.

23. For purposes of conducting an investigation, the Investigative Office shall have full and complete access to all relevant information, records, personnel, and property of the Organization, in accordance with the rules, policies and procedures of the Organization.

24. To the extent provided by the Organization’s rules, policies and procedures and relevant contracts, the Investigative Office shall have the authority to examine and copy the relevant books and records of projects, executing agencies, individuals, or firms participating or seeking to participate in Organization-financed activities or any other entities participating in the disbursement of Organization funds.

25. The Investigative Office may consult and collaborate with other Organizations, international institutions, and other relevant parties to exchange ideas, practical experience, and insight on how best to address issues of mutual concern.

26. The Investigative Office may provide assistance to and share information with other Investigative Offices.

PROCEDURAL GUIDELINES

Sources of Complaints

27. The Investigative Office shall accept all complaints irrespective of their source, including complaints from anonymous or confidential sources.

28. Where practicable, the Investigative Office will acknowledge receipt of all complaints.
Receipt of Complaint

29. All complaints shall be registered and reviewed to determine whether they fall within the jurisdiction or authority of the Investigative Office.

Preliminary Evaluation

30. Once a complaint has been registered, it will be evaluated by the Investigative Office to determine its credibility, materiality, and verifiability. To this end, the complaint will be examined to determine whether there is a legitimate basis to warrant an investigation.

Case Prioritization

31. Decisions on which investigations should be pursued are made in accordance with the rules, policies and procedures of the Organization; decisions on which Investigative Activities are to be utilized in a particular case rest with the Investigative Office.

32. The planning and conduct of an investigation and the resources allocated to it should take into account the gravity of the allegation and the possible outcome(s).

Investigative Activity

33. The Investigative Office shall, wherever possible, seek corroboration of the information in its possession.

34. For purposes of these guidelines, Investigative Activity includes the collection and analysis of documentary, video, audio, photographic, and electronic information or other material, interviews of witnesses, observations of investigators, and such other investigative techniques as are required to conduct the investigation.

35. Investigative Activity and critical decisions should be documented in writing and reviewed with managers of the Investigative Office.

36. Subject to the Organization’s rules, policies and procedures, if, at any time during the Investigation, the Investigative Office considers that it would be prudent, as a precautionary measure or to safeguard information, to temporarily exclude a staff member that is the subject of an investigation from access to his or her files or office or to recommend that he or she be suspended from duty, with or without pay and benefits, or to recommend placement of such other limits on his or her official activities, the Investigative Office shall refer the matter to the relevant authorities within the Organization for appropriate action.
37. To the extent possible, interviews conducted by the Investigative Office should be conducted by two persons.\(^8\)

38. Subject to the discretion of the Investigative Office, interviews may be conducted in the language of the person being interviewed, where appropriate using interpreters.

39. The Investigative Office will not pay a witness or a subject for information. Subject to the Organization’s rules, policies and procedures, the Investigative Office may assume responsibility for reasonable expenses incurred by witnesses or other sources of information to meet with the Investigative Office.

40. The Investigative Office may engage external parties to assist in its investigations.

INVESTIGATIVE FINDINGS

41. If the Investigative Office does not find sufficient information during the investigation to substantiate the complaint, it will document such findings, close the investigation, and notify the relevant parties, as appropriate.

42. If the Investigative Office finds sufficient information to substantiate the complaint, it will document its investigative findings and refer the findings to the relevant authorities within the Organization, consistent with the Organization’s rules, policies and procedures.

43. Where the Investigative Office’s investigative findings indicate that a complaint was knowingly false, the Investigative Office shall, where appropriate, refer the matter to the relevant authorities in the Organization for further action consistent with the Organization’s rules, policies and procedures.

44. Where the Investigative Office’s investigative findings indicate that there was a failure to comply with an obligation existing under the investigative process by a witness or subject, the Investigative Office may refer the matter to the relevant authorities in the Organization.

REFERRALS TO NATIONAL AUTHORITIES

45. The Investigative Office may consider whether it is appropriate to refer information relating to the complaint to the appropriate national authorities, and the Investigative Office will seek the necessary internal authorization to do so in cases where it finds a referral is warranted.\(^9\)

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\(^8\) Interviews of subjects should be conducted by two investigators. For interviews of complainants, witnesses and other persons, the number of interviewers depends on the nature and the circumstances of the case.

\(^9\) In some Organizations the decision and the referral of a matter to national authorities may be taken by another internal office.
REVIEW AND AMENDMENT

46. Any amendments to the Guidelines will be adopted by the Organizations by consensus.

PUBLICATION

47. Any Organization may publish these Principles and Guidelines in accordance with its policies on the disclosure of information.
ANNEX 3

General Principles for Reviews of CII Investigation Offices conducted by external experts

Introductory Remarks

Having regard to the 13th Conference of International Investigators (CII) held in Luxembourg in September 2012, and its decision that the workshop dealing with so called "Peer Reviews" constitute a Working Group22 to develop general principles and guidance for conducting external reviews of CII investigation offices,

Having regard also to the Working Group's numerous exchanges and deliberations on this topic since the 13th Conference, including discussions at the 14th and 15th Conference of International Investigators,

Having regard, furthermore, to the statement in the preamble to the "Uniform Guidelines for Investigations" (2nd Edition) that there is a need for investigation offices to undergo periodically an external quality assessment,

Commending the Working Group and all stakeholders involved for their work and the constructive compromise achieved,

The investigative offices present at the 15th Conference of International Investigators agreed to support with broad consent the following General Principles as a non-binding recommendation of a framework that investigative offices may wish to consider utilizing when choosing to conduct an external review:

Nature of Review

The framework is intended to guide reviews that have been self-initiated by CII investigation offices. The framework is not intended to guide external reviews of investigative offices at the direction of the organization to which the investigative office belongs.

Timing of Review

Periodic external reviews are highly desirable. However, the scope of the review and of prior reviews, the mandate of the office to be reviewed, a change in management, any consequent restructuring, and the needs of the investigative office, may be relevant in determining the timing, need for, and frequency of the review.

22 The working group is comprised of representatives of the African Development Bank, FAO, IACA, OLAF, UNDP, UNFPA, UNOIOS, and the World Bank.
Composition of the Review Panel

The review panel should generally be comprised of two or more qualified individuals from different institutions which can include or be comprised of staff from the investigation offices represented at the Conference of International Investigators and/or external experts. The panel should not include staff from the office being reviewed.23

Terms of Reference

The precise nature of the review will be set out in the Terms of Reference (TOR), a document prepared in advance by the investigative office. The TOR or associated documentation shall include, inter alia, the qualifications and experience needed to be a reviewer in a given review. TORs will be agreed upon with the review panel.

Methodology

• The TOR for the review should provide a framework sufficiently detailed to offer guidance for the panel’s work, yet with sufficient flexibility to allow for the unique characteristics of any given review. The essential feature of the review process is that the findings will be evidence based and any recommendation made at the end of the review will emanate from those findings. For the recommendations to be relevant, the review panel will need to understand the overall profile of the work, in the context of the organization. Points to be observed:

• The review panel should examine the legal basis and the policy framework of the office to assess their adequacy to fulfil its mandate;

• The review panel should assess the operating practices of the office which may include a review of systems used to trigger the investigation process24; case assessment methodology; investigation methodology25; and reporting26;

• In accordance with the organization’s policies and procedures, and observing applicable confidentiality and data protection requirements, the review panel may examine a sufficient number of closed case files with a view to conducting an analysis of work performed by the office based upon the evidentiary materials within the files. The sample of cases chosen for review should be made by the reviewers following consultation with the office being reviewed. The cases should be representative of the caseload and mandate of the office. Such factors as the nature of the allegation, the complexity of the matter, the time taken to investigate, and whether the case

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23 For avoidance of doubt, the members of the review panel do not need to be drawn from the same type of organization as the one being reviewed. The investigative office may wish to agree to the composition of the review panel
24 For example, how effective is the reporting system and, therefore, how likely is it that cases will come to the attention of the investigation office.
25 Recognizing that there is a spectrum of acceptable investigative practices, this should include a review of the main steps undertaken in the investigation of a sample of cases – for example, evidence handling, witness interviews, subject interviews, investigation planning, and investigation reports.
26 An assessment of effectiveness in informing stakeholders of the results and lessons learned from investigations.
involved staff of the organization or third parties, will be some of the considerations in selecting the cases to be examined;

• A broad spectrum of interviews should be conducted, including, where possible: (i) staff at all levels of the investigative office; (ii) members of project/programme areas of the organization;

  (iii) the organization’s relevant oversight offices and committee; (iv) executive staff of the organization; and (v) other relevant actors, including office/s receiving and/or acting upon investigation reports;

• The review panel may undertake on-site visits to branch/field units/missions where resources and time allow and such visits are believed to be relevant to the review;

• The review panel should consider including a comparison of similar offices in its report. The comparative table should be sufficiently representative in terms of issues raised and organizations consulted to enable an objective appreciation. Such issues as interviewee’s rights, notice of interview, advance detail of allegations as well as topics such as staffing, rotation, training, computer forensics, and on-going professional education are examples of matters which may be compared, if applicable to the investigative office under review;

• In respect of all proposed recommendations, the reviewers should give due consideration to the proportionality, the costs/resources, and administrative burden on the office under review.

Optimal Length of Reviews

The external reviews should be as thorough and expeditious as possible, taking into account the resources required and costs involved. Having these parameters in mind, the external reviews should preferably be completed within six months.

Costs of the External Review

The costs associated with the external review of an investigation office will be subject to agreement between the investigative office being reviewed and the investigation office(s) sending staff as qualified experts and/or the external experts.

Confidentiality

An external review report should not name any individual, subject of investigation or witness nor should it give detail sufficient to enable him or her to be identified. The identity of interviewees should not be disclosed without their consent.

Appropriate measures should be taken to avoid unnecessary disclosure of sensitive case information.

The report when completed is and remains the property of the office requesting the review and any sharing of the report, or its contents, should be exclusively at the discretion of the requesting office. The report and all related materials produced during its commissioning form part of the institutional archives of the institution that commissioned the report.
The review panel shall return or destroy all materials received during the review and all copies of the report.

Reviewers shall be required to sign a confidentiality undertaking and to maintain confidentiality over information obtained and/or produced as part of the review. Reviewers shall also declare any potential conflict of interest arising prior to the review and at any stage thereafter and, unless the conflict is resolved, may be required to recuse themselves from the review.

**Review Report**

A draft report including observations and proposed recommendations shall be submitted to the office requesting the review before completion by the review panel. There should be ample opportunity for the office requesting the review to comment on the findings or remarks in the draft report. In the event of disagreement and impossibility of reconciling the differing views, the dissenting views of the office requesting the review should be attached to and form part of the report.

**Future Developments**

To facilitate external reviews of member organizations, to promote best practices and standardization in how they are conducted, to exchange relevant information on review processes, and to foster the further development of the external review process, discussions and deliberations of experiences by reviewers and investigation offices subject to review should form a regular item on the CII agenda. In order to maintain this process, a supporting platform (permanent Working Group), attached to the CII and carried, upon request of the CII, by one or more of the CII organization(s), shall be established.
ANNEX 4

The following documents were consulted during the Review:

WIPO Policies
- Office instruction 58/2012 – Policy to Protect Against Retaliation for Cooperating in an Oversight Activity or Reporting Misconduct or Other Wrongdoing (“Whistleblower Protection Policy”);
- Office instruction 71/2012 – Working Hours;
- Office instruction 84/2012 – WIPO Code of Ethics;
- Office instruction 13/2013 – Policy on Preventing and Deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism; and,
- Office Instruction 7/2014 – Workplace-related conflicts and grievances.
- Staff Regulations and Rules of the International Bureau of WIPO, 1 November 2014;
- Independent Advisory Oversight Committee (IAOC); Terms of Reference

IOD Reports
- Fraud Risk Assessment Report IOD, 10 July 2014
- Annual Report of the Director of the Internal Oversight Division (IOD), 14 July 2015 WO/PBC/24/6;
- Summary Annual Report of the Director of the Internal Audit and Oversight Division (IAOD), 4 July 2014;
- IAOC – 38th Session – August 24-28 2015 – Overview of Investigation Cases in IOD as of 31 July 2015;
- IAOC – 36th Session – March 2015 – Overview of Investigation Cases in IOD as of 16 March 2015;
- Status of Work – May 2015; and,
- Status of Work – August 2015.

IOD Policies
- WIPO Internal Oversight Charter, Annex 1 of the WIPO Financial Regulations and Rules;
- Investigation Policy, Internal Audit and Oversight Division, January 2014; and,

Job Descriptions
- Head, Investigation Function (P-5);
- Senior Investigator (P-4); and,
- Secretary (G-4).

Other WIPO internal or external publications
- Information Circular No. 15/2015 entitled “Disciplinary measures applied in WIPO during the period January-December 2014”;
- IAOC quarterly reports 2014 and 2015 (from 32nd meeting to 38th meeting);
- IAOC annual report 2014/2015

Public Reports
- Association of Certified Fraud Examiners (ACFE), Benchmarking Your In-House Fraud Investigation Team, 2015.

Non-public sources
- Integrity Vice Presidency Benchmarking Study (World Bank): A Comparative Study of Resourcing, Functions and Performance, presented at the Conference of International Investigators in Montreux, September/October 2015
ANNEX 5

Mr. Claudio Zanghi
Head of Investigative Unit at the European Patent Office (EPO). Graduated in economics at the Bocconi University in Milan, Claudio Zanghi entered the civil service in 1994, at the Italian Court of Auditors until 2002. During this period he worked for ca one year and a half on a temporary secondment at the European Court of Auditors in Luxembourg, where he participated inter alia to audit missions in several European countries on the implementation of European Structural Funds. In 2002 he joined the internal audit function at the EPO, where he conducted audits in multiple areas, as well as, since 2012, ad hoc investigations allocated to internal audit. He participated inter alia in projects such as the EPO Fraud risk assessment and on the introduction of a framework for investigations at the EPO. Since January 2013 he is head of investigative unit, following adoption of the Guidelines for Investigations at the EPO, based on an extensive benchmarking of investigative arrangements in international organisations. He regularly attends the annual Conference of International Investigators and has participated inter alia to specialist investigative training sessions at the International Anti-Corruption Academy.

Mr. Sébastien Godefroid
Sébastien spent 17 years in the Canadian military with 10 of those in Military Intelligence including operational deployments to Haiti and Bosnia. From 2006 to 2012, he worked for the International Criminal Court (ICC) investigating War Crimes and Crimes against Humanity. From 2012 to 2014, he worked as an Investigation Officer for the UN World Food Programme (WFP) in Rome and since 2014, he works as a Senior Investigation Officer for the UN High Commissioner for Refugees (UNHCR) in Geneva. Sébastien has completed a “Diplôme d’études supérieures en gestion” from the Hautes Études Commerciales (HEC) in Montréal, Canada. He is a Certified Fraud Examiner (CFE) and has a Level 2 Certificate in Procurement and Supply Operations from the Chartered Institute for Procurement and Supply (CIPS).