

Advisory Committee on Enforcement

Sixteenth Session
Geneva, January 31 to February 2, 2024

REPEAL OF A SPECIAL RULE OF PROCEDURE OF THE ADVISORY COMMITTEE ON ENFORCEMENT

Document prepared by the Secretariat

I. BACKGROUND

1. When the WIPO General Assembly established the Advisory Committee on Enforcement (ACE) in 2002, it decided that the ACE would follow the WIPO General Rules of Procedure, but also adopted two special rules of procedure for the ACE. The one at issue here specifies that the Chair and the two Vice-Chairs serve a term of one year and are eligible for re-election to the offices that they held at the expiration of that term¹.

2. This document outlines the undesired consequences of this special rule following the introduction of the new electoral cycle of officers of WIPO Assemblies and other bodies of the Member States of WIPO², and invites the ACE to recommend to the WIPO General Assembly to repeal it.

¹ Paragraphs 114 and 120 of the *Report on the 2002 WIPO General Assembly* (document WO/GA/28/7, available at https://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_28/wo_ga_28_7.pdf), referring to paragraphs 8 and 10 of *Matters Concerning the Status of the Advisory Committee(s) on Enforcement* (document WO/GA/28/4, available at: https://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_28/wo_ga_28_4.pdf). The other special rule of procedure of the ACE regarding membership and observers is beyond the scope of this document.

² Paragraph 127 of the *General Report on the Sixty-third Series of Meetings of Assemblies of the Member States of WIPO* (document A/63/10, available at: https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=580211), referring to *New Electoral Cycle of Officers of WIPO Assemblies and Other Bodies of the Member States of WIPO* (document A/63/5 Rev., available at: https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=577373).

II. OFFICERS' TERM

A. SITUATION UNDER THE PREVIOUS ELECTORAL CYCLE OF OFFICERS

3. Until 2022, the special rule of procedure limiting the officers' term to one year has led to inconsistent results. Officers were elected at the beginning of a session, and their term lasted for one year from the day they were elected³. While the ACE typically met annually, the exact timing depended on the calendar of WIPO meetings in a given year. Two scenarios were possible: Either an ACE session would fall plainly within the period of one year from the first day of the previous ACE session – in that case, the officers elected at the previous ACE session held their offices for two consecutive ACE sessions. Alternatively, an ACE session would take place outside of the period of one year from the first day of the previous ACE session – in that case, the officers elected at the previous ACE session held their offices for the first ACE session only, and new officers were elected at the beginning of the subsequent ACE session.

B. SITUATION UNDER THE NEW ELECTORAL CYCLE OF OFFICERS

4. In July 2022, the Assemblies of the Member States of WIPO adopted a new electoral cycle of officers of Assemblies of the Member States of WIPO and other bodies of the Member States of WIPO⁴. In doing so, the Assemblies of the Member States of WIPO amended Rule 9(2) of the General Rules of Procedure of WIPO to harmonize it with the WIPO General Assembly electoral cycle, which was adopted in 2016, to wit: that "Officers' term of office shall begin following the final meeting of the session during which they were elected".

5. The concurrent application of amended Rule 9(2) with the above-mentioned special rule of procedure of the ACE creates additional complexity and inconsistency in the operation of the ACE, particularly in circumstances where an ACE session takes place outside of the period of one year after the final meeting of the previous ACE session. In this scenario, officers elected during an ACE session begin their term following the final meeting of that session. Pursuant to the special rule of procedure for the ACE, however, their term ends one year after, i.e., before the subsequent ACE session has taken place. In other words, their term ends without having chaired any ACE session.

6. To avoid these inconsistencies and to align the functioning of the ACE with the new electoral cycle of WIPO officers, it is proposed to repeal the special rule of procedure setting ACE officers' terms at one year.

7. The effect of this repeal would be that the General Rules of Procedure of WIPO would govern the term of office of officers of the ACE. Accordingly, under Rule 9(1), a Chair and two Vice-Chairs would be elected in the first meeting of each ordinary session. Pursuant to Rule 9(2), the officers' terms of office would begin following the final meeting of the session during which they were elected, and officers would remain in office until the final meeting of the next session of the ACE, when the newly elected officers begin their terms of office. In practice, all ACE officers would thus hold office for one ACE session, including the time leading up to that session. This proposal would avoid the above-mentioned inconsistencies and provide clarity about the officers' terms at the time of their election.

³ Under the General Rules of Procedure of WIPO before the amendments introduced on July 23, 2022, it was implicit that the officers' term started with the election. Rule 9 read: "(1) In the first meeting of each ordinary session, each body shall elect a Chairman and two Vice-Chairmen. (2) Officers shall remain in office until the election of new officers".

⁴ See footnote 2 above.

III. IMMEDIATE RE-ELECTION

8. The second element of the special rule of procedure makes ACE Chairs and Vice-Chairs immediately eligible for re-election to the offices that they have held at the expiration of that term. Based on feedback received by some Groups during informal consultations, it is proposed to repeal this second element as well.

9. The effect of this repeal would be that the General Rules of Procedure of WIPO would govern the eligibility for re-election of officers of the ACE. Pursuant to Rule 9(3), the outgoing Chair and Vice-Chairs shall not be immediately eligible for re-election to the office which they have held.

IV. PROPOSED REPEAL

10. The Secretariat proposes to repeal the special rule of procedure in both its parts.

11. *The ACE is invited to recommend to the WIPO General Assembly to repeal the special rule of procedure as set out in paragraphs 6 and 8.*

[End of document]