

WIPO General Assembly

Fifty-Seventh (31st Extraordinary) Session Geneva, July 9 to 17, 2024

REPORT ON THE ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

prepared by the Secretariat

1. During the period under consideration, the Advisory Committee on Enforcement (ACE) held its sixteenth session from January 31 to February 2, 2024. The session was attended by 272 participants, representing 87 Member States, one Non-State Member and 28 Observers. The session was chaired by Ms. Amanda Lotheringen (South Africa), and Mr. Yasser Al-Debassi (Saudi Arabia) served as Vice-Chair. The Committee elected Mr. Taffy Yiu (United Kingdom) as Chair and Ms. Borana Ajazi (Albania) and Ms. Mercy K. Kainobwisho (Uganda) as Vice-Chairs for the seventeenth ACE session, on the understanding that their term would begin following the final meeting of the sixteenth ACE session, and that they would remain in office until the terms of office of newly elected officers begin.
2. The Committee took note of document WIPO/ACE/16/18 (Repeal of a Special Rule of Procedure of the Advisory Committee on Enforcement – reproduced in the Annex). It decided to recommend to the WIPO General Assembly to repeal the special rule of procedure as set out in paragraphs 6 and 8 of document WIPO/ACE/16/18 (see paragraph 19 of document WIPO/ACE/16/19).
3. The sixteenth ACE session addressed the following work program:
 - exchange of information on national experiences on awareness-building activities and strategic campaigns as a means for building respect for intellectual property (IP) among the general public, especially the youth, in accordance with Member States' educational or any other priorities;

- exchange of information on national experiences relating to institutional arrangements concerning IP enforcement policies and regimes, including mechanisms to resolve IP disputes in a balanced, holistic and effective manner;
- exchange of information on national experiences in respect of WIPO’s legislative assistance, with a focus on drafting national laws of enforcement that take into account the flexibilities, the level of development, the difference in legal tradition and the possible abuse of enforcement procedures, bearing in mind the broader societal interest and in accordance with Member States’ priorities; and
- exchange of success stories on capacity building and support from WIPO for training activities at national and regional levels for agencies and national officials in line with relevant Development Agenda (DA) Recommendations and the ACE mandate.

4. The work program consisted of 30 expert presentations, three panel discussions and two Secretariat presentations (see documents WIPO/ACE/16/4 to WIPO/ACE/16/17¹).

5. Under work program item A “Exchange of information on national experiences on awareness-building activities and strategic campaigns as a means for building respect for IP among the general public, especially the youth, in accordance with Member States’ educational or any other priorities”, two studies were presented, namely “Consumption Behavior of Pirated Copyright Works” by Dr. Xuemei Bian, Professor in Marketing, Newcastle Business School, Northumbria University, United Kingdom, and “Consumer Attitudes and Behavior in Relation to Counterfeit Goods – Survey Results from Six ASEAN Countries” by Mr. Mike Clubbe, Independent Market Researcher, United Kingdom (see documents WIPO/ACE/16/7 and WIPO/ACE/16/8). In addition, four Member States shared their national experiences with raising awareness of the importance of respect for IP: “Innovative Ways of Narrating China’s Intellectual Property Stories” by the China National Intellectual Property Administration (CNIPA); “Stimulating Creativity and Enriching National Cultural Identity in Peru” by the National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI); “Raising Awareness of the Importance of Respect for Intellectual Property in Portugal” by the Portuguese Institute of Industrial Property (INPI); “Increasing Intellectual Property Knowledge Among Moldovan Youth – The Role of the State Agency on Intellectual Property” by the State Agency on Intellectual Property (AGEPI) of the Republic of Moldova (see document WIPO/ACE/16/9). Discussions followed with interventions by the delegations of China and Japan.

6. Under work program item B “Exchange of information on national experiences relating to institutional arrangements concerning IP enforcement policies and regimes, including mechanisms to resolve IP disputes in a balanced, holistic and effective manner”, presentations were grouped into six topics:

- (i) Addressing Offline Intellectual Property Infringement: The Secretariat presented on “Current Practices in the Area of Customs Recordation: Report on Results of Survey” (see document WIPO/ACE/16/4). In addition, two Member States shared their national experiences addressing online IP infringement: “The Upcycling of Seized Counterfeit Goods in South Africa” by the Companies and Intellectual Property Commission (CIPC), South Africa, and “The Tick Box Public-Private Partnership for the Self Storage Industry in the United Kingdom” by the Intellectual Property Office, United Kingdom (see document WIPO/ACE/16/5). Discussions followed with interventions by the delegations of China, Spain, Switzerland, Japan and the Representative of the European Brands Association (AIM).

¹ Available at: https://www.wipo.int/meetings/en/details.jsp?meeting_id=76048.

(ii) Challenges and Solutions for Small and Medium-sized Enterprises in Intellectual Property Enforcement: One Member State, one private sector association and one legal and public policy expert shared their experiences: “Initiatives to Support Small and Medium-sized Enterprises in Enforcing Their Intellectual Property Rights in France” by the National Anti-counterfeiting Committee (CNAC), France; “Intellectual Property Enforcement and Small and Medium-sized Enterprises in the United Kingdom Design Sector – Challenges and Solutions” by Anti Copying in Design (ACID), United Kingdom; and “Intellectual Property Enforcement and Small and Medium-sized Enterprises – An Overview of Challenges and Solutions” by Dr. Mohamed Hegazy, Senior Legal and Public Policy Consultant, Egypt (see document WIPO/ACE/16/6).

(iii) Addressing Online Intellectual Property Infringement: Three studies were presented, namely, “The Localization of Intellectual Property Infringements in the Online Environment – From Web 2.0 to Web 3.0 and the Metaverse” by Dr. Eleonora Rosati, Professor of Intellectual Property Law, University of Stockholm; “Practices Used by Online Marketplaces to Tackle the Trade in Counterfeits” by Dr. David Shepherd, Senior Lecturer, School of Criminology and Criminal Justice, University of Portsmouth, United Kingdom; and “Technical, Legal and Judicial Aspects of the Illegal Retransmission of Live Broadcasts Through Internet Streaming” by Mr. Shaun Wigley, Teaching Associate, Griffith Business School, Griffith University, Brisbane, Australia (see documents WIPO/ACE/16/10, WIPO/ACE/16/11 and WIPO/ACE/16/13). In addition, three Member States shared their national experiences in addressing online IP infringement: “Anti-Counterfeiting Technologies in Japan – State of Play and Challenges Ahead” by the Japan Patent Office (JPO); “The Role of Internet Access Providers and Online Service Providers in Addressing Intellectual Property Right Infringements and Its Evolution Within the Mexican Legal System” by the Mexican Industrial Property Institute (IMPI); and “Combating Online Piracy of Sports and Other Live Events in the European Union” by the European Union Intellectual Property Office (EUIPO) (see document WIPO/ACE/16/12 Rev.). A panel discussion took place, moderated by Mr. Andrey Lucas Macedo Corrêa, Executive Secretary, National Council for Combating Piracy and Intellectual Property Crimes (CNCP), Brazil, with interventions by the delegations of China, Sierra Leone, Paraguay and Indonesia.

(iv) Coordinating Intellectual Property Enforcement: Seven Member States shared their experiences: “Coordinating Intellectual Property Enforcement in Cambodia” by the Department of Intellectual Property, Ministry of Commerce, Cambodia; “The Inter-ministerial Council for Intellectual Property: Coordinating the Enforcement of Intellectual Property Rights in the Dominican Republic” by the Constitutional Court, Dominican Republic; “Countering Counterfeits: Kenya’s Decisive Steps Towards Intellectual Property Protection and Enforcement” by the Anti-Counterfeit Authority (ACA), Kenya; “Recent Operations of the Korean Intellectual Property Office’s Tech Police: Integrated Reporting and Consultation Center and Joint International Investigation” by the Korean Intellectual Property Office (KIPO); “Coordinating the Enforcement of Intellectual Property Rights in Saudi Arabia” by the Saudi Authority for Intellectual Property (SAIP); “The Experience of the Uganda Registration Services Bureau in Coordinating Intellectual Property Enforcement” by the Uganda Registration Services Bureau (URSB); and “Intellectual Property Enforcement Coordination in the United States of America” by the Office of the Intellectual Property Enforcement Coordinator, United States of America (see document WIPO/ACE/16/14). A panel discussion took place, moderated by Ms. Kristi O’Malley, International Computer Hacking & Intellectual Property (ICHIP) Attorney Advisor, Office of Overseas Prosecutorial Development, Assistance and Training, United States Department of Justice, Embassy of the United States of America, Bucharest, with an intervention by the Delegation of China.

(v) Artificial Intelligence and Intellectual Property Enforcement: Four contributions were presented by academics and private sector entities: “Artificial Intelligence and Intellectual Property Enforcement – Overview of Challenges and Opportunities” by Mr. Dennis Collopy, Senior Research Fellow, School of Creative Arts, University of Hertfordshire, United Kingdom; “An Innovative Approach to Anti-Counterfeiting: Artificial Intelligence-powered Parcel Inspection for Intellectual Property Enforcement” by Countercheck; “Artificial Intelligence in the Music Industry: Its Use by Pirates and Right Holders” by Universal Music Group; and “The Use of Artificial Intelligence by Mercado Libre to Detect and Terminate Intellectual Property Infringement” by Mercado Libre (see document WIPO/ACE/16/15). A panel discussion took place, moderated by Mr. Harrie Temmink, Head of Service Intellectual Property in the Digital World, European Observatory on Infringements of Intellectual Property Rights, EUIPO, with an intervention by the Representative of AIM.

(vi) The Prosecution of Intellectual Property Crime: The Secretariat presented on “The Prosecution of Intellectual Property Crime: Report on Results of Survey” (see document WIPO/ACE/16/16). In addition, two Member States shared their national experiences with prosecuting IP crime: “Prosecuting Intellectual Property Crime in the Dominican Republic” by the Constitutional Court, Dominican Republic; and “Prosecuting Technology Leaks in the Republic of Korea” by the Supreme Prosecutors’ Office, Republic of Korea (see document WIPO/ACE/16/17). Discussions followed with an intervention by the Delegation of Zambia.

7. Under work program items C “Exchange of information on national experiences in respect of WIPO’s legislative assistance, with a focus on drafting national laws of enforcement that take into account the flexibilities, the level of development, the difference in legal tradition and the possible abuse of enforcement procedures, bearing in mind the broader societal interest and in accordance with Member States’ priorities” and D “Exchange of success stories on capacity building and support from WIPO for training activities at national and regional levels for agencies and national officials in line with relevant Development Agenda Recommendations and the ACE mandate”, no delegation or representative requested the floor.

8. The Committee took note of the presentation by the Secretariat on recent activities of WIPO in the field of building respect for IP, guided by the 2022/2023 Program of Work and Budget, Development Agenda Recommendation 45, WIPO Strategic Pillar 2 (Bring People Together and Partner with Stakeholders to Shape the Future of the Global IP Ecosystem) and WIPO Expected Result 2.3 (International Dialogue and Cooperation on Building Respect for IP).

9. With regard to future work, the Committee agreed to continue to consider, at its seventeenth session, the current work program, as listed in paragraph 3 above. The Delegation of Brazil, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), proposed to include, under the second of the four agreed-upon work program items for discussion at the seventeenth session of the ACE, the topic of biopiracy. The delegations of Colombia, Ecuador, Guatemala and Paraguay expressly stated their support of the proposal. The proposal was also supported by the Delegation of Ghana, speaking on behalf of the African Group. The Delegation of the Kingdom of the Netherlands, speaking on behalf of Group B, acknowledged the proposal and expressed certain reservations. These reservations were also shared by the Delegation of Poland, speaking on behalf of the Central European and Baltic States (CEBS), as well as the Delegation of the European Union. After consultations, it was agreed to request the Secretariat to prepare a proposal taking all views into account and present it to the Group Coordinators at the first consultation meeting in preparation of the seventeenth ACE session, to be held no earlier than June 2024.

10. *The WIPO General Assembly is invited to:*

(i) take note of the “Report on the Advisory Committee on Enforcement (ACE)” (document WO/GA/57/9); and

(ii) follow the recommendation by the ACE and repeal the special rule of procedure of the ACE as set out in paragraphs 6 and 8 of document WIPO/ACE/16/18 (reproduced in the Annex).

[Annex follows]



WIPO/ACE/16/18
ORIGINAL: ENGLISH
DATE: JANUARY 26, 2024

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 from 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 Annex and of document]