

Program and Budget Committee

Thirty-Fourth Session
Geneva, June 27 to July 1, 2022

REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)

prepared by the WIPO Independent Advisory Oversight Committee (IAOC)

1. This document contains the Report by the WIPO Independent Advisory Oversight Committee (IAOC), prepared by the IAOC and covering the period from July 10, 2021 to May 20, 2022.
2. The following decision paragraph is proposed:
 3. *The Program and Budget Committee (PBC) recommended to the WIPO General Assembly to take note of the “Report by the WIPO Independent Advisory Oversight Committee (IAOC)” (document WO/PBC/34/2).*

[Report by the WIPO Independent
Advisory Oversight Committee follows]

ANNUAL REPORT BY THE WIPO
INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)
FOR THE PERIOD JULY 10, 2021 to MAY 20, 2022

[JUNE 9, 2022]

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I. INTRODUCTION

1. Pursuant to its Terms of Reference (ToR), the WIPO Independent Advisory Oversight Committee (IAOC) submits an annual report to the Program and Budget Committee (PBC) and to the WIPO General Assembly.
2. The IAOC (hereinafter referred to as “the Committee”) was established in 2005. It is a subsidiary body of the WIPO General Assembly and of the PBC. It serves in an independent expert advisory capacity and assists the Assembly and the PBC in fulfilling their oversight responsibilities.
3. The present report covers the period from July 10, 2021 to May 20, 2022. Section II of this report provides an overview of the Committee’s quarterly sessions, composition of the Committee and working methods. Section III details matters discussed and reviewed by the Committee during the reporting period.

II. QUARTERLY SESSIONS, COMPOSITION AND WORKING METHODS

Quarterly Sessions

4. During the reporting period, the Committee held four quarterly sessions: from September 22 to 23, 2021 (62nd session); from December 1 to 3, 2021 (63rd session); from March 21 to 25, 2022 (64th session); and May 18 to 20, 2022 (65th session). All the sessions were held virtually due to the COVID-19 pandemic. In line with its ToR, the Committee held information meetings with representatives of Member States following all sessions, except for the 62nd session in view of a conflicting schedule. All the session reports are published on the WIPO website.

Composition and Selection Process for new Members

5. The IAOC comprises seven members drawn from WIPO’s Regional Groups. The members serve in their personal capacity and independently of Member States. In conformity with its ToR and Rules of Procedure, at its 63rd session in December 2021, the Committee elected Mr. Bert Keuppens as Chair and Mr. Igors Ludboržs as Vice-Chair. Ms. Tatiana Vasileva was the Chair during the 62nd and 63rd sessions.
6. In accordance with the selection process described in paragraph 28 of document WO/GA/39/13, the Committee currently consists of the following members:
 - Mr. Bert Keuppens, Chair (Group B);
 - Mr. Igors Ludboržs, Vice-Chair (Group of Central European and Baltic States (CEBS));
 - Ms. Tatiana Vasileva (Group of Central Asian, Caucasus and Eastern European States (CACEEC));
 - Mr. Mukesh Arya (Asia and the Pacific Group);
 - Ms. Maria Vicien-Milburn (Group of Countries of Latin America and the Caribbean (GRLAC));

- Mr. Othman Sharif (African Group); and
- Mr. Zhang Long (China).

The composition reflects a proper mix and balance of skills, expertise and experience.

7. In March 2021, Mr. Sharif informally reported his resignation from the Committee, and has not participated in meetings thereafter.

Working Methods

8. The Committee is a non-executive body, providing expert advice through its engagement with WIPO's Director General and other Senior Managers, the Director, Internal Oversight Division (IOD), the Chief Ethics Officer, the Ombudsperson, the Controller and the External Auditor, mainly on the basis of reports, presentations and information with which it is provided. It further deliberates on relevant matters internally to reach its assessments and conclusions.

IAOC Self-Assessment

9. At its 63rd session, in line with its ToR, the Committee conducted a self-assessment of its activities from January to December 2021. The Committee concluded that the IAOC was independent of the Organization's management and that it exercised its own judgment, voiced its own opinions and acted freely from any conflict of interest. While majority of the members agreed that its ToR guided them in discharging their roles and responsibilities, they were hindered by the virtual environment to take appropriate steps and propose improvements to conduct meetings in a more efficient manner. The continuing pandemic made the operations of the Committee challenging, but overall, the members assessed that they had functioned very effectively in 2021 and adequately carried out their mandate, amidst the restrictions.

III. MATTERS DISCUSSED AND REVIEWED

A. Internal Oversight

Oversight Strategy 2022 – 2026

10. During its 63rd session, the Committee reviewed the Oversight Strategy, which encompassed the three functions of IOD, namely, internal audit, evaluation and investigation. The Committee looked for more direct linkages of the proposed activities to the Medium-Term Strategic Plan (MTSP) 2022-2026 issued by the Director General. The Committee appreciated the Strengths, Weaknesses, Opportunities, Threats (SWOT) analysis presented and made suggestions on the formulation of certain "Threats". The Committee suggested that a mapping of risks might be helpful as a separate exercise. The Committee also followed up on the roadmap to issuing an overall audit opinion as recommended by the External Quality Assessors.

Internal Oversight Plan and Workplan Results

11. The Committee reviewed the implementation of the 2021 Oversight Annual Workplan, based on quarterly IOD Activity Reports submitted for each session. With regard to the 2022 Oversight Annual Workplan, the Committee thoroughly reviewed the draft workplan and noted the proposed four audits, four evaluations and four other engagements that included a combined audit and evaluation of the Office of the Legal Counsel. The Committee inquired into how the

identification of audit/evaluation subjects were done, what the risk ratings were, what objectives are to be achieved, and what the particular concerns were. They also asked if there was any management request for advisories. The Committee followed up on the status of the Member States' request for evaluation of External Offices, while noting one planned internal audit of External Offices (first series) in the last quarter of 2022.

Internal Audit

12. During the reporting period, the Committee reviewed, together with IOD and Management, two reports on consulting engagements, three audit reports, and one validation report. These have been published in unredacted format on the WIPO website, in line with IOD's Report Publication Policy (IOD/PP/2017).

- Report on WIPO Crisis Management during the Pandemic (IA 2020-05)
- Report on the Performance Management and Staff Development System (IA 2021-03)
- Report on the Audit of Enterprise Risk Management (IA 2021-01)
- Audit Report of the Hague Platform Project (IA 2021-02)
- Audit Report on Management of Assets, Supplies and Materials (IA 2021-04)
- IOD Report: Validation of After Service Health Insurance (ASHI) Claims Data (IA 2022-06)

Evaluation

13. During the reporting period, the Committee reviewed, together with IOD and Management, four evaluation reports:

- Advisory Engagement on Methodology for the Development of National Intellectual Property Strategies: Supplement on Benchmarking Indicators (EVAL 2021-02)
- Report on the Evaluation of the Use and Impact of IOD Evaluation Section Recommendations (EVAL 2020-03)
- Report on the Evaluation of WIPO Standing Committees (EVAL 2020-02)
- Report on the Meta-Synthesis of Regional Divisions Evaluations (EVAL 2021-04)

Investigations

14. In accordance with the Internal Oversight Charter, at each session the Committee was apprised by the Director, IOD, on the status of investigation cases and caseload trends, providing a breakdown of complaints received and complaints substantiated by category of misconduct. In all cases involving a potential conflict of interest on the part of IOD, the Committee reviewed each case in detail and provided advice to the Director, IOD, accordingly.

15. At the 65th session of the Committee, IOD reported that, as of May 4, 2022, there were 19 pending investigation cases, seven of which were under preliminary evaluation, seven under full investigation and five cases on hold. The Committee noted that of the 19 pending cases, one was registered in 2020, eight in 2021, and 10 in 2022.

16. During the reporting period, one Management Implication Report was issued regarding information published in the PatentScope database.

17. In accordance with its ToR, the Committee met in a private session with Director, IOD.

B. External Audit

18. At its 63rd, 64th and 65th sessions, the Committee met with the representatives of the External Auditor, National Audit Office (NAO), United Kingdom, with WIPO Management in attendance. The Committee also held a private session with the said representatives.

19. In these series of sessions, the discussions were focused on the status of the 2021 external audit planning and the interim audit outcomes, the status of the ongoing 2021 financial and performance audits, and the audit completion report and long form audit report on 2021 WIPO Financial Statements.

20. At its 65th session, the Committee took note of the unqualified audit opinion that the external audit team anticipate recommending to the External Auditor. The Committee also took note of the comment that the continued low level of audit adjustment continues to reflect good internal control and sound financial reporting processes and practices within WIPO.

C. Financial Reporting

2021 WIPO Financial Statements

21. At its 64th session, the Committee discussed with the Director, Finance Division, the draft 2021 Financial Statements. At its 65th session, the Committee reviewed the final Financial Statements, which were found to be comprehensive and detailed, with adequate disclosures in the accompanying notes. There were no changes noted in accounting policies; however, there was an important change in the methodology to determine the medical claims costs, with a significant impact on the ASHI liability, which increased by CHF 121 million. The Committee advised the Secretariat to closely monitor the assumptions used to determine this liability, especially in view of the overwhelming financial impact. The Committee also queried on the related-party disclosures and advised the Secretariat to review this for completeness.

D. Risk Management and Internal Controls

22. During its 64th session, the Committee, together with Management, reviewed two matters for presentation to the 34th PBC meeting. First was the revision to the Financial Regulations and Rules (FRR), which was last substantially updated in 2007. This revision would enable WIPO to maintain the integrity of its risk management and internal controls, and to address new areas of activities and ways of working that emerged since the 2007 update. The final draft was discussed at the 65th session. The Committee inquired into the environmental, social standards and governance as part of the FRR. It was also agreed that the Secretariat will continue to monitor developments relating to sustainability reporting for inclusion into the FRR at the appropriate time.

23. Also at the 65th session, in response to the Committee's questions on operationalization of the FRR and delegation of authority, the Controller explained that the Director General is ultimately accountable for all authorities delegated to the Controller/High Level Officer in charge of Procurement (HLOP). The Controller/HLOP are in turn accountable for all delegations from them to other officers. The Controller assured the Committee that the internal control system is well in place and a strong delegation of authority system integrated with the Enterprise Resource Planning (ERP) system is maintained by the Office of the Controller. The Director General delegates authority to Sector Leads, who are responsible for planning and managing the effective and efficient utilization of resources as approved by the Member States. The Sector Leads may in turn sub-delegate authority to Directors/other officers, as appropriate. The Controller added that

delegation of authority could be revoked at any time should this be found that it was not working properly. The Controller further explained that all regulations and changes to these are approved by the Member States, and affirmed that Member States could propose changes to the FRR.

24. The second matter discussed was the draft Risk Appetite Statement. Management acknowledged the role played by the IAOC in encouraging an update to the Statement. The Committee asked specifically about consultation with IOD, which had just concluded its audit of Enterprise Risk Management (ERM). The Committee and Management had an in-depth discussion on the concepts of risk universe, capacity and appetites. The Committee gave feedback regarding the concepts used to define the WIPO Risk Appetite Statement. Overall, the Committee welcomed the linkage of the Risk Appetite Statement to the MTSP. The Committee took particular note of the Organization's overall appetite, set at "medium".

E. Implementation of Oversight Recommendations

25. In all the sessions during the reporting period, the Committee reviewed with IOD the implementation status of oversight recommendations from IOD, the External Auditor, and the IAOC. The Committee took note of movements and closures, with particular attention to high-priority recommendations and those that remained outstanding for a long time.

26. At its 63rd session, the Committee noted the revisions to some estimated implementation dates, as well as revisions that should have been made in instances where the revised implementation dates had not been met, and inquired what would be considered a reasonable deadline for implementation. Again, the Committee emphasized the importance of implementing high-priority recommendations and expressed concern over those high-priority recommendations that remained unresolved for over three years. The Committee advised that the risk of not implementing recommendations may be discussed by the Risk Management Group.

27. At its 64th session, the Committee noted the follow-up action, seeing that 28 recommendations have been closed. There were implementation dates that needed to be revised. The Committee appreciated the presentation of recommendations by Sector, as it is now clearer to see the exact status of majority of recommendations. The Program Managers present during the meeting explained that several recommendations were no longer relevant and some recommendations were overlapping.

28. At its 65th session, the Committee encouraged the Secretariat to monitor the implementation of recommendations which have been outstanding for a long period of time. With regard to Joint Inspection Unit (JIU) recommendations, the Committee encouraged a systematic follow-up and inclusion in the statistics of outstanding recommendations, similar to the recommendations of IOD, IAOC and the External Auditor.

Joint Inspection Unit (JIU) Recommendations

29. At its 62nd session, the Controller presented to the Committee the status of implementation of JIU recommendations addressed to the Executive Head of JIU participating organizations, as well as those addressed to Legislative Bodies (WO/PBC/33/6), as discussed at the 33rd session of the PBC. The Committee inquired about the JIU's recommendation to Legislative Bodies to consolidate all investigations and related activities, irrespective of the type of misconduct, in the internal oversight office of each Organization (JIU/REP/2020/1). The Committee suggested that WIPO clarify how cases of sexual exploitation and abuse, as well as sexual harassment, should be handled. The Committee underscored the importance that the victim must know where to go first and reiterated that in some UN Organizations, this function is entrusted to the Chief Ethics

Officer. The Committee emphasized that the purpose is to have a clear contact, point so as to be able to act promptly and to provide advice to victims as to the next steps.

30. With regard to the JIU's recommendation relating to Enterprise Risk Management (JIU/REP/2020/5), the Controller informed the Committee that the Risk Appetite Statement would be drafted in 2022, based on discussions with the Risk Management Group in the context of the MTSP.

F. Ethics and Ombudsperson

Ethics Office

31. At its 62nd session, the Committee met with Ms. Jovanie Philogene, the newly appointed Chief Ethics Officer, WIPO Ethics Office, Sector of the Director General, with effect from September 15, 2021. At the following 63rd session, the Committee reviewed with the Chief Ethics Officer, the draft Ethics Office 2022 Workplan, dated November 25, 2021. The Committee noted that the Workplan was based on projects identified from the previous draft Ethics Office 2021 Workplan, on pending risk and audit recommendations, on inputs from WIPO Senior Management, as well as on an assessment of the ethics legal framework in WIPO. The Committee gave suggestions on performance indicators, such as benchmarking and establishing the right baseline for service delivery by the Ethics Office.

32. At its 64th session, the Committee discussed the implementation of the said 2022 Workplan and advised that the implementation status be shown separately with sufficient details, including reason(s) for any delay. The Chief Ethics Officer highlighted the increasing trend in the number of cases since her appointment in September 2021. The Committee noted the high number of cases relating to outside activity and advised that the reasons behind the increase be determined and analyzed. It further advised the Chief Ethics Officer to identify appropriate solutions to address this emerging trend. She agreed that formulating a clear policy on outside activities, in consultation with the Human Resources Management Division, may perhaps address this concern.

33. With regard to financial disclosure, the Chief Ethics Officer reported full compliance, with two exceptions. The Committee asked whether the current financial disclosure form captured the information on cryptocurrency. The Chief Ethics Officer also updated the Committee about two policies (Protection against Retaliation and Financial Disclosure) that the Committee will have to review in due course.

34. Due to budget constraints, the Chief Ethics Officer started sharing an agency worker with the Ombudsperson in April, and would have an intern starting in May.

35. At its 65th session, the Committee discussed with the Chief Ethics Officer, the Ethics Office Annual Report for the period from January to December 2021, noting that she came on board for the last three months of the year. The Chief Ethics Officer presented the draft revised Policy to Protect against Retaliation, whereby the Committee noted the replacement of the United Nations Office for Project Services (UNOPS) with the UN Ethics Office (UNEO) as the second level reviewer. The Chief Ethics Officer also informed the Committee that WIPO is in very good shape *vis-à-vis* the four recommendations resulting from the JIU's "Review of the Ethics Function in the United Nations System" (JIU/REP/2021/5).

36. The Committee expressed support for the initiatives of the Chief Ethics Officer to develop a software to make the review of financial disclosure statements more cost efficient and not paper-based. The Committee appreciated her initiatives to enhance the Ethics and Integrity Online Training, which will be mandatory for all WIPO personnel starting in September 2022. The Committee regretted the delay in the implementation of this

mandatory training. From her summarized caseload from January 1 to May 13, 2022, the Committee again noted the highest number of cases pertaining to outside activities and conflict of interest. With regard to sexual harassment cases, the Committee discussed the advantages and disadvantages of centralizing the point of contact on the Ethics Office.

Ombudsperson

37. At its 62nd session, the Committee reviewed with the Ombudsperson the Activity Report for 2020 and took note of the four recommendations from the 2016-2019 report that were being reiterated in 2020. While appreciating that the Ombudsperson's recommendations are not binding, the Committee again advised that some mechanism be put in place for following-up recommendations. Having a target timeline for implementation of recommendations would also be helpful. The Committee was pleased to know that the Ombudsperson's Activity Report will now be available publicly. The Committee had in the past suggested that the reports be shared with the Member States (WO/IAOC/54/2) and that a peer review of the Ombudsperson's function could be helpful (WO/IAOC/58/2). The Ombudsperson confirmed that a peer review was planned before the end of 2021.

G. Other Matters

WIPO Investment Reports

38. As requested by Member States, Management submitted to the Committee at each of its sessions the available monthly Investment Performance Reports and the monthly Investment Monitoring Reports, prepared by the Investment Advisors and the Custodian, respectively. The Committee wishes to clarify that its role is limited to conveying information contained in the Investment Performance Report and Investment Monitoring Report, and does not provide any assurances in that regard.

39. Based on the periodic reviews of the monthly investment reports from June 2021 up to March 2022, the Committee confirmed that the information provided during IAOC's reporting period showed that, based on the investment market benchmark, all the vehicles in WIPO's investment portfolio delivered the expected results and were managed in accordance with the stated Investment Strategy. In addition, the Committee confirmed that the Custodian did not report any breaches, active or passive, nor justified exceptions.

Proposed Amendments to the IAOC Terms of Reference

40. The Committee started its review of the IAOC's ToR at its 60th session. During its 64th session, the Committee discussed the comments of WIPO Secretariat on the initial draft proposed amendments to the IAOC ToR. The Committee noted that last October 15, 2021, the Member States had approved the recent amendments presented by the Secretariat regarding the ToR provisions on the selection procedures for members of the IAOC.

41. The proposed amendments of the Committee aim at three objectives: (i) incorporating the relevant recommendations of the JIU resulting from its Review of Audit and Oversight Committees in the United Nations (UN) system (JIU/REP/2019/6); (ii) taking into account issues raised during IAOC's self-assessment done at its 59th and 63rd sessions in December 2020 and December 2021, respectively; and (iii) considering evolution in the practices among external oversight bodies in the UN system.

42. At its 65th session, specific items were discussed with the Secretariat and it was agreed that the modalities and ToR of the IAOC are to be presented, discussed and agreed by the

Member States. The draft ToR were agreed with the members of the IAOC present during this meeting.

43. Following comments and feedback received from Regional Groups and Member States, who requested more time to consult on the matter, the Committee concluded that it would serve the Members better to postpone the discussion.

44. In view of this, the Committee requested the Secretariat to postpone this discussion on the Proposed Amendments to the ToR of the IAOC, that the item be deleted, and that the corresponding Agenda be revised accordingly.

IV. CLOSING REMARKS

45. The IAOC would like to express its appreciation to the Director General, the Assistant Director General for the Administration, Finance and Management Sector, the Controller, the Director, IOD, the Chief Ethics Officer, the Ombudsperson, as well as the External Auditor, for their availability, clarity and openness in their regular interaction with the Committee, and for the information provided.

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