

WIPO



A/43/INF/8

ORIGINAL: English

DATE: September 21, 2007

WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

ASSEMBLIES OF THE MEMBER STATES OF WIPO

Forty-Third Series of Meetings

Geneva, September 24 to October 3, 2007

BRIEF NOTE ON ALLEGATIONS AGAINST THE ORGANIZATION AND ITS DIRECTOR GENERAL

prepared by the Secretariat

1. The present note provides clarifications pertaining to a series of reported allegations and rumors concerning the Organization and its Director General. It is established at the request of a number of Member States.
2. Some are vesting relentless efforts in their attempts to destabilize this Organization and derail it from the substantive issues it is intended to pursue. This campaign started some three years ago. Since that time, WIPO has had to face one enquiry after another. At the beginning, the Director General was absolutely convinced and determined to carry out any investigation deemed necessary to set the record straight on allegations or rumors of fraud. He and the staff of the Organization have given unconditional support and unfailing cooperation in this regard.
3. In the framework of a judicial process initiated in February 2004 – as part of bankruptcy proceedings in which one of the companies involved in the renovation of the former WMO building – rumors of fraud in relation to this project were spread. During the investigation, a few WIPO staff members were requested to testify as witnesses. The Director General lifted their immunity to allow them to do so. No WIPO official was indicted.

4. As soon as his attention was drawn to these facts in February 2004, an internal enquiry was carried out by the Director General on this matter and no fraud or irregularity was observed.
5. As an additional measure, from December 2004 onwards, the Director General accelerated the work done to draw up an Internal Audit Charter. This Charter was approved by the Organization's General Assembly at its September 2005 session. In addition, at the beginning of 2005, the Director General set up a Committee comprising senior WIPO staff members and requested an evaluation of the procedures followed by the Secretariat in relation to the renovation project of the former WMO building. The Committee submitted its report, which comprised several recommendations placed to ensure that the practices of the WIPO Procurement Service were beyond reproach and as effective as possible. The Committee did not find that the rules of procedure had been infringed in any way. Since then, these rules have been further strengthened. Member States were made aware of this. The establishment of the Audit Committee in turn reinforced the existing oversight mechanism.
6. Furthermore, and in order to avoid any misunderstanding, the Director General requested that the WIPO Staff Regulations and Staff Rules in force be revised as regards external activities and interests. A decision was taken by the Member States in 2006 in this respect.
7. In spite of the above, in the course of 2004-2005, a campaign was launched referring to fraud in the Organization and reporting the remarks of persons who, all the while remaining anonymous, engaged in spreading rumors.
8. Although a recent report by the Organization's External Auditor on the construction in question made no reference to misappropriation of funds or fraud, a number of Member States requested, at the end of 2004, the intervention of the United Nations Joint Inspection Unit (JIU). The Organization cooperated immediately. The JIU report made no reference to fraud either.
9. Yet, all these inquiries did not seem to suffice. In July 2005, five Member States persuaded the Director General to allow the external auditor of WIPO (the Federal Auditor of the host country) to carry out – with the support of an external auditing firm – a further external and independent investigation on all allegations and other rumors. The external auditor who was in charge of the process selected the firm Ernst & Young. All available avenues for investigation were exhausted, including “whistle blowing”, and all rumors, lies, unfounded allegations and false information, were addressed. At that time, there were rumors circulating, including one about the Director General's non-existing swimming pool allegedly financed by WIPO; a mysterious story of an unnamed, corrupt staff member that the Director General is said to have protected; another perplexing one about an employee on WIPO's payroll at the private service of the Director General; and some others. The external investigation report of Ernst & Young categorically stated that it could not conclude that certain employees of WIPO and third parties concerned committed fraud or dishonest acts.
10. Nevertheless, the deliberate intention to harass the Organization and its Director General remained on the agenda of a few. This was conducted without distinction and even to the extent of attempting to associate the Organization with the United Nations “oil for food” question.

11. Today, after five different investigations and/or enquiries, as well as the desk-to-desk exercise, to which a great deal of energy and financial resources have been devoted, and in the absence of wrongdoing, some remain unsatisfied and have delved into the personal administrative file of the Director General to unjustifiably cast doubts on his credentials.

12. As regards the age of the Director General, he was born in 1954 and not in 1945. In 2006, the Director General, on his own initiative, undertook to rectify his date of birth on official records to, among other things, ensure that no benefits would derive from this error when he departs from the Organization in 2009. The Legal Counsel and the Human Resources Management Department ensured that all necessary requirements and formalities were met in the processing of this rectification. Upon submission of the required documents, the competent Swiss authorities and the UN Joint Pension Fund corrected this error. The only consequence of this formality is a considerable financial reduction in the pension of the Director General. This was also confirmed in an official letter dated July 6, 2006, from the Chief, Participation, Entitlements and Contributions Section of the United Nations Joint Staff Pension Fund (UNJSPF), which clearly stated that "with the corrected date of birth of the Director General, he stood to lose in his pension benefits, and that if he retired before August 2009, he would not be entitled to an immediate monthly pension from the Pension Fund but only to a deferred retirement benefit that can start to be paid earliest as from age 55". The insinuation that, by this act, he was seeking to "profit" from this error has been denied over and over again and proven to be false. The Administration and the Legal Counsel confirmed that no automatic right would derive from this rectification. Such allegations have no grounds in substance and are unfounded.

13. All unfounded allegations regarding possible benefits are based on incorrect speculation and refer to events which are in essence hypothetical, fictitious and will not occur – they have no basis in truth and do not correspond to the reality of the Director General's intentions. Also, the rectification will not result in an extension of the duration of his appointment, nor does he have any intention to remain in the Organization as a Director after the expiration of his term. Such a supposition is ridiculous at best.

14. The allegations that the Director General would have sought to "profit" from this error are unfounded. It was reiterated on numerous occasions that there was never any intent to mislead or to obtain undue benefits from this error. The record will show that, far from benefiting financially from his position as Director General of WIPO and Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV) at the same time, the Director General has, since his appointment in 1997, relinquished, on his own initiative, his entitlement to his salary as Secretary General of UPOV as well as associated privileges and benefits, while the previous practice was to enjoy both entitlements.

15. As to the academic credentials of the Director General, in order not to leave room for further doubt or speculation, the Director General has obtained all the academic degrees he had declared to have received at the time of his recruitment by WIPO and subsequently. In particular: in 1984, *Diplôme de Docteur Es Sciences Politiques, Institut Universitaire de Hautes Études Internationales, Université de Genève*; in 1978, Master of Arts in International Affairs at Ohio University; in 1977, LLB, University of Khartoum; in 1976, BA, Cairo University. It is very saddening that these credentials were in turn called into question and indeed pointless when the facts are most easy to establish.

16. It is further intriguing to note the insinuation that the Director General's doctorate degree would have been obtained in 1994, if ever, when this degree was actually awarded in

1984, hence nurturing a belief that the Director General claimed in his *curriculum vitae* of 1990 to have obtained a degree that he had not yet or had never received. The incorrect extrapolation of this led to other allegations that the Director General had a Masters degree only in African studies, which is at the very least surprising in its insinuation that such studies would be of a diminished value and that he would have had to hide it, had this been true. In fact, the Director General has never had the honor of being awarded a Masters degree in African studies.

17. At many levels, this deliberate intention to harm cannot go unnoticed. In a most recent confidential report, blatantly disclosed to the public, the author not only casts doubt on the academic credentials of the Director General but, moreover, unscrupulously included in the report personal information about his private life and family that had absolutely no bearing whatsoever on the matter at hand.

18. Despite grave concerns over the value of the said report, its legitimacy, the fallacy of its conclusions and the failure of its author to observe due process and principles of independence, the report was somehow made available to some Member States and other parties, hence compromising its confidential status.

19. As to the role of the JIU in this, it is recalled that, in 2006, its Chairperson requested the conduct of an investigation into allegations concerning the age of the Director General. The so-called allegations, as far as is known, were merely based on an anonymous letter received and widely distributed by the JIU. The Chairperson took it upon herself to broadly disseminate this anonymous letter without any validation of the information, and without so much as informing the Director General, being the sole person concerned by the allegations. Some Member States expressed concerns and reservations regarding the circumstances that led to the request for this investigation, and its legitimacy.

20. As to the mandate of the JIU to act solely on the basis of an anonymous letter – the right of the JIU to request the conduct of an investigation against a staff member as opposed to a systemic institutional matter; the existence of a precedent for the JIU to act on the basis of an anonymous letter, in particular investigating a personal matter related to a staff member; and the obligation of Inspectors to discharge their duties in a fully independent manner, with the highest standards of integrity and in the sole interest of the organizations – these are all questions that are left to the appreciation of Member States.

21. Certain general elements could also be raised in connection with the JIU in general and its seemingly turbulent relationship with WIPO in the course of recent years. Member States will recall the highly controversial role of the JIU at the meeting of the WIPO Assemblies of Member States in 2005 at the time of the discussion of its report. During these discussions, a delegation unveiled by pure coincidence the existence of a matrix that was prepared by the JIU for the sole benefit of certain Member States and that was selectively distributed. Needless to mention, such an incident compromises the obligations of the JIU to discharge its duties in a fully independent manner, with the highest standards of integrity and in the sole interest of the organizations.

22. Most recently, the Director General was informed that he had apparently sent an envoy, from among WIPO staff, to approach Permanent Missions in Geneva to advise them that he intended to step down by the end of the year 2007. To date, the Director General is not aware of the identity of this envoy, nor of the circumstances that led to this misrepresentation.

[End of document]