

Wednesday, October 14th, 2015

Facilitator

Draft GUIDING PRINCIPLES REGARDING WIPO EXTERNAL OFFICES

1. The following principles shall guide the role of the WIPO Secretariat and the decision making by Member States on the establishment of a sustainable, adequately sized, but limited, network of WIPO External Offices (EOs), that adds clear value, efficiency and effectiveness to program delivery in accordance with the results framework of the Program and Budget, in a coordinated and complementary way with WIPO HQ and in a way that may otherwise not be achieved through operations at WIPO HQ.

A. Transparency of procedures and decision making by Member States for the establishment of new External Offices

2. Any Member State wishing to host an EO, in its national capacity or on behalf of a group of countries or Regional Group if so agreed by its members, should notify the President of the General Assembly and Director General in writing. The President of the General Assembly shall inform the Member States of the receipt of the notification without delay. This paragraph does not apply to those Member States which have already presented the written notifications, in their national capacity or on behalf of a group of countries or Regional Group.

3. The Member State wishing to host an EO, in its national capacity or on behalf of a group of countries or Regional Group if so agreed by its members, should submit a proposal through the Director General for consideration by the Program and Budget Committee (PBC). In the preparation of this proposal the Member State may request the assistance of the Secretariat. The Secretariat shall submit to the PBC the notification and the proposal received from the Member State.

3bis. The Secretariat shall provide to the PBC a separate, factual and technical report on proposed new EO and its consistency with these guiding principles. The document should also contain information relevant to the consideration of paragraphs 10*bis* and 17. The PBC will consider the proposal and the document in order to make any recommendation to the General Assembly.

4. The General Assembly will consider the report, including recommendations, of the PBC in order to take a final decision on the establishment of the new EO.

5. If the General Assembly approves the establishment of an EO, the Coordination Committee (CoCo) will consider the approval of a proposed agreement between the Director General on behalf of WIPO and the host country, consistent with Article 12 of the WIPO Convention.

B. Rationale for External Offices

6. The proposal referred to in paragraph 3 should provide the rationale and propose a mandate for the EO which reflects: any needs, the purposes, and the proposed scope of activities, including regional activities, if any; indicating the value added to the Organization's program delivery, with particular regard to the considerations set out in Sections D and E.

7. Recognizing that the mandate of each EO as decided by WIPO Member States might differ, the basic scope of activities in an EO may include:

- (i) Collaboration with the national IP office to support and advance the Organization's program delivery;
- (ii) Enhancement of innovation and creativity, including by promoting effective use of IP services;
- (iii) Raising awareness, understanding and respect for IP;
- (iv) The delivery of customer services to users of global IP services, including treaties and conventions administered by WIPO;
- (v) Assistance for using IP as a tool for promoting development and transfer of technology;
- (vi) The provision of policy and technical support to national IP offices to increase the use of IP;
- (vii) If approved by the PBC, WIPO may explore the possibility for an EO's delivery of other activities which are beneficial to WIPO Member States.

8. WIPO EOs will not conduct any activities related to processing¹ of international applications filed under the PCT, Madrid, and Hague systems, or any related financial transactions.

9. EOs can supplement the activities of, but not assume the duties which are primarily the responsibility of national IP authorities.

¹ For example: receipt, transmittal, review, search and examination, handling, publication, assignment on transfer of rights on licenses, renewal, and/or storage.

C. Regional Activity

10. The mandate of an EO may include undertaking activities similar to the basic scope set out in paragraph 7 consistent with and in support of WIPO's approved program in a group of countries or regional group if those countries which are to be covered by the EO have so agreed.

10bis. Such activities shall not prejudice the rights of any other country in that same region with regard to regular WIPO program activity, especially at the national level, including the delivery of any legal or technical assistance to those countries directly from WIPO HQ.

D. Financial and Budgetary Sustainability

11. Recognising the different levels of development among Member States, and the need to safeguard resources for regional bureaus without prejudice to Member States which opt to deal directly with WIPO HQ, the report under paragraph 3bis shall set out, based on facts, the technical feasibility of the proposed EO with respect to:

- (i) the budget implications of the establishment of the EO, including the financial and budgetary sustainability and its recurring costs;
- (ii) possible efficiency savings from the proposed activity of the EO.

The report under paragraph 3bis shall be without prejudice to the final political decision which Member States may take regarding any offer to host a WIPO EO.

11bis. Funding for EOs other than that provided by the host country or another country wishing to contribute to the functioning of the EO in question shall not impose any additional financial burden on Member States other than the approved regular budget allocation.

12. The ability to maintain the financial and budgetary sustainability of the WIPO External Offices network will depend on whether it contributes to the delivery of program results, the cost-effectiveness of its operation and the prevailing financial situation of the Organization, and the Secretariat should keep Member States adequately apprised of this consideration.

E. Geographic / Locational Aspects

13. Due consideration should be given to the principle of a sustainable, equitable, and efficient geographical network for the location of prospective EOs. Every EO should have a clearly defined geographical area of operation.

14. Due consideration should be given to developmental aspects, regions without an EO, or locations where the users of WIPO Premier Global IP Services are located.

15. The existence of an EO in a region, or even in a neighboring country, shall not by itself constitute a ground for denying a request put forward by a Member State in that same region to be considered and decided by the General Assembly.

16. The establishment of a new EO shall not prejudice the scope of an existing EO to conduct approved WIPO program activities in its host country or with a group of countries or Regional Group, as agreed by the Member States involved.

17. The establishment of an EO in one particular Member State shall not prejudice the rights and the conduct of relations by other Member States in the same geographical region with WIPO HQ.

F. External Offices' Accountability / Reporting

18. All EOs are an integral part of WIPO's results-based management and regulatory framework. Once the EO is established and operational, its performance and activities will be monitored and evaluated based on the performance indicators and targets, and reported to the PBC which will, in turn, transmit its recommendations to the General Assembly, as appropriate.

19. WIPO will directly procure the required IT equipment for all WIPO EOs through its normal processes.

G. Implementation and Review

20. These guiding principles shall apply universally to existing and prospective EOs.

21. To allow for evolving circumstances in WIPO's operating environment, these guiding principles shall be reviewed and approved upon a decision of the General Assembly.

22. (Facilitator): The size and performance of the entire EO network shall be evaluated every five years by the PBC, which may request the support of WIPO External Auditors or independent external evaluators, with due regard to the different mandates and functions performed by the EOs. The terms of reference of such evaluation shall be decided by the PBC.

DECISION BY THE GA:

Facilitators proposal:

The General Assembly of WIPO decides:

1. To adopt the Guiding Principles annexed to this decision;
2. Recognizing the Organization's limited capacity to open new EOs, and desirous to take a phased and prudent approach when establishing new EOs, to open in principle not more than 2 EOs per biennium for the biennia, 2016-17, 2018-19. However, the PBC will retain the flexibility to consider the establishment of one additional EO per biennium.
3. For the period mentioned in paragraph 2, prioritize 2 EOs for Africa, 1 for Asia and 1 for GRULAC. For this purpose, Member States are encouraged to submit their proposals to be considered under the guiding principles.