



King's Research Portal

Document Version
Peer reviewed version

[Link to publication record in King's Research Portal](#)

Citation for published version (APA):

Hestermeyer, H. P. (in press). World Intellectual Property Organization. In T. Cottier, & K. Nadakavukaren Schefer (Eds.), *The Encyclopedia of International Economic Law* Edward Elgar.

Citing this paper

Please note that where the full-text provided on King's Research Portal is the Author Accepted Manuscript or Post-Print version this may differ from the final Published version. If citing, it is advised that you check and use the publisher's definitive version for pagination, volume/issue, and date of publication details. And where the final published version is provided on the Research Portal, if citing you are again advised to check the publisher's website for any subsequent corrections.

General rights

Copyright and moral rights for the publications made accessible in the Research Portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognize and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the Research Portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the Research Portal

Take down policy

If you believe that this document breaches copyright please contact librarypure@kcl.ac.uk providing details, and we will remove access to the work immediately and investigate your claim.

World Intellectual Property Organization

Dr. Holger P. Hestermeyer, Shell Reader in International Dispute Resolution, King's College London

Fact sheet:

Abbreviation: WIPO

Web address: www.wipo.int

Seat: Geneva; with 5 external offices (Rio de Janeiro; Beijing; Tokyo; Moscow; Singapore)

Legal status: Specialized agency within the UN framework

Founding document: Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, 828 UNTS 3, as amended on September 28, 1979.

Membership: WIPO has 188 member States and has accredited 71 intergovernmental organizations, 329 NGOs and Palestine as observers.

Governing authority: The WIPO Convention sets up three governing bodies: the General Assembly consisting of the States parties to the WIPO Convention which are also members of either the Paris Union, the Special Unions and Agreements established in relation with it, the Berne Union, or any other international agreement designed to promote the protection of intellectual property and administered by WIPO; the Conference consisting of the States parties to the WIPO Convention; the Coordination Committee consisting, roughly, of States parties to the WIPO Convention which are members of the Executive Committee of the Paris or Berne Unions.

Head of the institution: Director General, appointed by WIPO General Assembly upon nomination by the Coordination Committee.

Main Bodies: General Assembly, Conference, Coordination Committee and the International Bureau as the Secretariat of the Organization directed by the Director General.

Voting rights/voting practice: In all three governing bodies each State that is a member of the body has one vote and majority decisions are generally possible (with differing requirements), but in practice decisions are generally taken on the basis of consensus without open voting

Areas of activity: intellectual property (IP)

Legal/policy instruments: WIPO administers 26 treaties that can be put into three groups: treaties providing for basic standards of IP protection, global protection system treaties and classification treaties.

Dispute settlement authority: WIPO maintains an Arbitration and Mediation Center providing alternative dispute resolution services.

Key literature: J. Eked-Samnik, L'organisation mondiale de la propriété intellectuelle (1975), WIPO Intellectual Property Handbook (2nd ed. 2004); T. Cottier, WIPO, Max Planck Encyclopedia of Public International Law (2009); C. Deere Birkbeck, The World Intellectual Property Organization (WIPO): A Reference Guide (2016)

Pages 2-3: Information about the institution

WIPO is an international organization set up in 1970 to promote the protection of intellectual property throughout the world. In 1974 it became a specialized agency of the United Nations. WIPO can be regarded as a framework organization for the 26 IP agreements with varying membership (and, in part, their own institutional setup) it administers.

Historical background/origin

The first major international agreements for the protection of intellectual property, the 1883 Paris Convention for the Protection of Industrial Property and the 1886 Berne Convention for the Protection of Literary and Artistic Works, each set up an International Bureau under the high authority of the Swiss government. These two institutions were merged in 1893 to create the “Bureaux internationaux réunis pour la protection de la propriété industrielle, littéraire et artistique”, later called “Bureaux internationaux réunis pour la protection de la propriété intellectuelle” (BIRPI) and until 1960 headquartered in Berne. Over the years BIRPI was charged with administering additional agreements relating to intellectual property besides the Paris and Berne Convention, five of them by 1967, four of which in turn provided that their members formed a “Union”. It was that year that witnessed the signing of the WIPO Convention in Stockholm, which replaced BIRPI with WIPO upon its entry into force in 1970, removing Switzerland’s supervisory authority and creating a proper international organization.

Organizational Structure

The WIPO Convention sets up an International Bureau directed by the Director General as the Secretariat of the Organization as well as three governing bodies: the General Assembly, the Conference and the Coordination Committee. Even though not all WIPO member States are members of the General Assembly (States that are not members of the Unions are excluded), that body is, in fact, the organization’s most important governance body, responsible *inter alia* for appointing the Director General, reviewing and approving the reports of the Director General and the reports and activities of the Coordination Committee, adopting the biennial budget common to the Unions and the financial regulations of the Organization. The Conference, according to the Convention, amongst others discusses matters of general interest in the field of IP and may adopt recommendations in that regard, adopts its own budget, establishes the biennial program of legal-technical assistance and adopts amendments to the WIPO Convention, but the functional division between General Assembly and Conference has not materialized in practice and the Conference has not met separately since 2005.¹ The Coordination Committee, finally, according to the Convention gives advice to the organs of the Unions, the General Assembly, the Conference, and the Director General on administrative and financial matters as well as other matters of common interest to at least two Unions or a Union and the Organization, prepares the draft agenda of the General Assembly and the draft agenda and the draft program and budget of the Conference and nominates a candidate for the office of Director General. Most of the responsibilities of the Coordination Committee have, in practice, been assumed by the Program and Budget Committee, a subsidiary organ of the General Assembly.² In practice, the three governing bodies of WIPO habitually meet every year in autumn (in ordinary or extraordinary session).

These four bodies coexist with two further level of governance. Horizontally, many of the IP Conventions that are administered by WIPO have created their own governance bodies, the membership of which differs from the WIPO Convention bodies. These bodies generally meet at the same time as the WIPO bodies, bringing together 20 different assemblies and other bodies of the Member States of WIPO and the Unions administered by WIPO.

¹ G. Tarasov & J. Flores Callejas, Review of Management and Administration in the World Intellectual Property Organization, UN Doc. JIU/REP/2014/2, para. 24.

² Ibid., para. 27.

Vertically, the WIPO governing bodies have set up numerous committees. The General Assembly can set up ad hoc committees of experts for a given purpose and has established such Standing Committees on the Law of Patents; the Law of Trademarks, Industrial Designs and Geographical Indications; Copyright and Related Rights and WIPO Standards. Any governing body can also constitute permanent committees. Thus, the general assembly has established the Program and Budget Committee; the Committee on Development and Intellectual Property; the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore and the Advisory Committee on Enforcement. Any WIPO Standing Committee or other body may establish a working group for particular questions. Finally, the international classification treaties have each established a permanent Committee of Experts to revise and update the respective classification system periodically.

WIPO's highly complex governance structure, largely a result of its long historic roots, has been the subject of a number of proposals for constitutional reform, so far without success.

WIPO maintains external offices in Singapore, Japan, Brazil, China and Russia. These offices, generally, promote WIPO's treaties, support WIPO's global IP systems and the delivery of technical assistance and capacity building as well as WIPO's outreach strategies. Each office covers the country where it is located, except the Singapore office, which provides coverage for the whole ASEAN region. The focus of each office varies depending on the specific needs of the country / region.³

WIPO's funding model is unique in the UN family of organizations. Member State contributions in the most current biennium account for a mere 6% of WIPO's total revenue, 94% of the revenue is created by fee income from WIPO's global IP systems and dispute resolution services, the predominant part stemming from the Patent Cooperation Treaty system.⁴

Goals/tasks

Pursuant to the WIPO Convention WIPO pursues two objectives: the promotion of intellectual property (as defined in the Convention) throughout the world and ensuring administrative cooperation among the Unions set up by the treaties administered by WIPO. To attain its objectives the Organization promotes the development of measures to facilitate IP protection and harmonize national legislation in the field, administers IP treaties, encourages the conclusion of agreements promoting the protection of IP, provides technical assistance and delivers capacity building and training programs in the area of IP, assembles and disseminates information on IP protection and carries out studies in the field. A particularity of WIPO as an international organization is that it provides IP services to business and innovators. Every two years, WIPO's objectives are laid down in the Director General's Program and Budget presented to member States for approval.

WIPO's concrete activities for the most part fall into three groups: policy and law-making in the field of IP both for its member States and in the international law arena, capacity building and training particularly in developing countries, and the provision of IP services. The most significant of these services are those under the "global protection systems", treaties facilitating the cross-border protection of IP rights, which generally have remained national in nature. Thus, the Patent Cooperation Treaty allows applicants to seek patent protection in multiple countries by filing one international application; the Madrid System provides similar services for trademarks, the Hague System for international designs and the Lisbon System for appellations of origin. Furthermore, through its Arbitration and Mediation Center, which was established in 1994, WIPO offers alternative dispute resolution services for the resolution of international commercial disputes between private parties "particularly appropriate for technology,

³ WIPO, Assemblies of the Member States, Fifty-Fifth Series of Meetings, WIPO External Offices Information document prepared by the Secretariat, WIPO Do. A/55/INF/6 of 20 August 2015, paras 2-3.

⁴ F. Gurry, Report of the Director General to the WIPO Assemblies (2015), 2.

entertainment and other disputes involving intellectual property”⁵ (whether contractual or non-contractual disputes). The Center is the leading dispute resolution service provider in the field of Internet domain name disputes under the Uniform Domain Name Dispute Resolution Policy (UDRP).

Like other international organizations, the character of WIPO’s membership has changed with decolonization and the attainment of almost universal membership. Normatively, this change has led to development goals becoming an important fixture of WIPO’s goals. Already under the Agreement between the UN and WIPO WIPO was recognized as also being responsible for facilitating the transfer of technology related to industrial property to developing countries to accelerate development. The development aspect of WIPO’s activities was strengthened in 2007 when WIPO adopted a Development Agenda. Politically, however, the uneasy coexistence of the goals of promoting IP rights and promoting development have exposed a rift in WIPO’s membership between (generally) developed member States favoring strong IP protection and contributing most of WIPO’s income and developing countries emphasizing development.⁶ The rift has already been apparent in the developments that led to the conclusion of the Agreement in Trade-Related Intellectual Property Rights (TRIPS) under the auspices of the WTO rather than WIPO and has also been prominent recently in WIPO’s work on IP and genetic resources, traditional knowledge and folklore.

Basic documents/principles

WIPO’s constitution is contained in the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on 14 July 1967 as amended in 1979. The Development Agenda, adopted by the General Assembly in 2007, is regarded as one of WIPO’s priorities, which is implemented by mainstreaming the recommendations of the Agenda into all of WIPO’s programs.⁷

Besides these basic documents, WIPO administers 26 treaties that can be put into three groups: treaties providing for basic standards of IP protection (e.g. the 1883 Paris Convention for the Protection of Industrial Property, the 1886 Berne Convention for the Protection of Literary and Artistic Works, the 1994 Trademark Law Treaty, the 1996 WIPO Copyright Treaty, the 2000 Patent Law Treaty), treaties facilitating obtaining IP protection in several countries – so-called global protection system treaties (e.g. those listed above) and, finally, classification treaties creating a classification system for, e.g., goods or services for the purposes of organizing information relating to IP rights.

Enforcement methods

Any attempt to provide a brief summary of enforcement concerning WIPO obligations is hampered by the fact that each WIPO-administered treaty may contain its own enforcement method, which may be particular to one treaty, such as the possibility of termination of the status of international depository authority in relation to microorganisms for the purposes of patent procedure in case of non-compliance with treaty-requirements under the Budapest Treaty, or common amongst several and yet not all of them, such as access to the ICJ for disputes concerning the application of a treaty, as is provided e.g. in the Paris, Berne and Rome Conventions.

However, some general statements as to WIPO’s “soft” yet successful enforcement mechanisms are possible. WIPO maintains a number of programs that foster compliance with states’ obligations under WIPO-administered treaties. Such programs include capacity building and training programs to help countries develop the capacity needed to maintain functioning IP protection systems and technical assistance to IP offices. Upon request by member States, WIPO

⁵ <http://www.wipo.int/amc/en/center/background.html>.

⁶ G. Tarasov & J. Flores Callejas, Review of Management and Administration in the World Intellectual Property Organization, UN Doc. JIU/REP/2014/2, para. 15.

⁷ WIPO, A Users’ Guide, 10 (2011).

also provides advice on the design of IP legislation, which may include providing a draft law, and assists developing and least-developed countries in producing national intellectual property strategies. WIPO cooperates and interacts with numerous stakeholders, including IP offices.

Some of the WIPO-administered treaties and the TRIPS Agreement provide for an obligation to communicate new laws and texts in relevant areas of IP law to WIPO, thereby providing a method of tracking compliance. Using these notifications, direct submissions from IP offices and websites of IP offices, WIPO has built an electronic database of national IP laws and treaties (WIPO Lex).

Similarly, WIPO's bodies and committees (as well as the bodies set up by the WIPO-administered treaties) provide for fora allowing States to exchange information (and exert pressure) in different areas of IP law, thereby further enhancing compliance by member states.

Cooperation with other IEL Organizations

One of the most significant developments in the international IP landscape in the last two decades was the coming into force of the TRIPS Agreement, a comprehensive IP agreement setting minimum standards, under the auspices of the World Trade Organization. IP chapters have since become a staple in preferential trade agreements and IP rights also feature in investment treaties. The preamble of the TRIPS Agreement expresses the desire to establish a mutually supportive relationship between the WTO and WIPO and the agreement envisages a cooperation between the TRIPS Council and WIPO. On 22 December 1995 the two organizations concluded a cooperation agreement, which mainly covers access to, notifications and translation of countries' laws, cooperation with respect to Art. 6ter of the Paris Convention and legal-technical assistance and technical cooperation. The WTO and WIPO have launched a number of joint initiatives on technical cooperation. In the interface between IP and public health the cooperation has evolved into a trilateral cooperation between WHO, WTO and WIPO.

Given the relevance of IP rights in many fields and the fact that WIPO constitutes a UN specialized agency, WIPO also cooperates with other organizations within the UN family. Thus, e.g., under its agreement with the UN WIPO recognizes the responsibilities for coordination of the General Assembly and the Economic and Social Council and agrees to cooperate in the field of technology transfer with organizations such as UNCTAD, UNDP and UNIDO. WIPO has accredited 17 UN System Organizations as observers, amongst which the IBRD, IDA, IFC, ILO, IMF, ITU and UNIDO.

Furthermore, WIPO has accredited 8 IP-related intergovernmental Organizations (e.g. ARIPO and the EPO), 34 other regional intergovernmental Organizations (e.g. the AU, ASEAN, CARICOM, CIS, the Council of Europe, EFTA, the EU, the League of Arab States, the OAS and SADC) and 12 other intergovernmental organizations (e.g. the WTO) as observers.