

Consultative Committee

CC/93/3

Ninety-Third Session
Geneva, April 6, 2017Original: English
Date: March 1, 2017**PROCEDURE FOR THE APPOINTMENT OF THE EXTERNAL AUDITOR OF UPOV***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. The purpose of this document is to report on developments with regard to the procedure to appoint the external auditor of UPOV for a term of office of six years starting from January 2018.

BACKGROUND

2. The background with regard to the procedures for the appointment of the external auditor of UPOV and of the World Intellectual Property Organization (WIPO) is provided in document CC/90/18 "Procedure for the appointment of the external auditor of UPOV".

3. Article 29(6) of the 1991 Act and Article 25 of the 1978 Act of the UPOV Convention provide that the auditing of the accounts of UPOV shall be effected by a State member of UPOV as provided in the administrative and financial regulations, and that the State shall be designated, with its agreement, by the Council.

4. Regulations 8.1 and 8.2 of the "Financial Regulations and Rules of UPOV" (document UPOV/INF/4/4) provide as follows (changes with respect to WIPO's Financial Regulations and Rules are highlighted):

"Appointment of the External Auditor**"Regulation 8.1**

"The WIPO External Auditor, who shall be the Auditor General (or official holding the equivalent title) of a Member State of WIPO, shall be appointed by the General Assembly of WIPO, in the manner decided by the WIPO Assembly. Where the WIPO External Auditor is the Auditor General (or official holding the equivalent title) of a State member of UPOV, the Council shall designate as External Auditor, with its agreement, the WIPO External Auditor. Where the WIPO External Auditor is the Auditor General (or official holding the equivalent title) of a Member State of WIPO that is not a State member of UPOV, the Council shall designate as External Auditor, with its agreement, the Auditor General (or official holding the equivalent title) of a State member of UPOV."

"Tenure of office of the External Auditor**"Regulation 8.2**

"The External Auditor shall be appointed for a term of office of six years non-renewable consecutively."

5. The General Assembly of WIPO, at the Forty-Ninth Series of Meetings of the Assemblies and other Bodies of the Member States of WIPO, which was held from September 26 to October 5, 2011, approved the recommendation of the WIPO Selection Panel for the appointment of the Comptroller and Auditor General of India as the WIPO External Auditor for a period of six years, to begin in January 2012 (document WO/GA/40/19 Prov., paragraph 29, and document WO/GA/40/3, paragraph 13).

6. The Council, at its forty-fifth ordinary session, held in Geneva on October 20, 2011, designated Switzerland as external auditor of the accounts of UPOV for a term of office of six years starting from January 2012 (see document C/45/18 "Report", paragraph 28).

7. The WIPO External Auditor for a term of office of six years starting from January 2018 will be appointed by the WIPO General Assembly, at the Fifty-Seventh Series of Meetings of the Assemblies and other Bodies of the Member States of WIPO, to be held in October 2017.

8. The Council, at its fifty-first ordinary session, to be held in Geneva on October 2017, will be invited to appoint a new external auditor of the accounts of UPOV for a term of office of six years starting from January 2018.

PROCEDURE FOR THE APPOINTMENT OF THE EXTERNAL AUDITOR OF UPOV AGREED BY THE CONSULTATIVE COMMITTEE AT ITS NINETIETH SESSION

9. The following approach was agreed by the Consultative Committee, at its ninetieth session held in Geneva on October 28 and 29, 2015, concerning the procedure to appoint the External Auditor of UPOV for a term of office of six years starting from January 2018 (see document CC/90/18, paragraphs 9 to 11 and document CC/90/20 "Report", paragraph 33):

(a) to use, as far as possible, the procedure for the appointment of the External Auditor of WIPO;

(b) to specify the following in the WIPO invitations to be sent to all member States seeking nominations for the appointment of the External Auditor (please note that all UPOV member States are also WIPO member States):

In addition to conducting the external audit of WIPO, the External Auditor may be expected to audit the accounts of the International Union for the Protection of New Varieties of Plants (UPOV). If, however, the successful candidate selected by WIPO is not from a member State of UPOV, the selected candidate will only provide its services to WIPO and UPOV will pursue its own selection procedure.

(c) to report to the Consultative Committee, in October 2016, the candidates that have made formal proposals;

(d) the WIPO Selection Panel to consider inviting the President and Vice-President of the UPOV Council to be present during the oral presentations of those short-listed candidates that are member States of UPOV;

(e) to report to the Consultative Committee, no later than April 2017, the progress made in relation to the work by the WIPO Selection Panel. If at any point during the WIPO selection process, it becomes apparent that the selection of an external auditor for WIPO from a UPOV member State would be unlikely, the Consultative Committee would be invited to prepare for the establishment of a sub-committee to consider those candidates shortlisted by the WIPO Selection Panel that are member States of UPOV, or invite new candidates if none of the shortlisted candidates meet such criterion, and to make a recommendation to the Consultative Committee concerning the appointment of the UPOV External Auditor by the Council in October 2017.

10. At the end of April 2016, WIPO invited its Member States to nominate a candidate for the appointment of the External Auditor of WIPO, for the financial periods between 2018 and 2023. Nominations were only received from WIPO Member States which are also members of UPOV. At the end of June 2016, WIPO then issued a Call for Proposals, requesting nominated candidates to submit a formal proposal for the provision of external auditing services with a deadline of September 30, 2016. The evaluation of these proposals was scheduled to begin in October 2016.

11. The Consultative Committee, at its ninety-second session, held in Geneva on October 27 and 28, 2016, noted the developments with regard to the procedure to appoint the External Auditor of WIPO for a term of office of six years starting from January 2018, reported in document CC/92/8. In particular, it noted that nominations had only been received from WIPO member States that were also members of UPOV, which meant that, in accordance with the Financial Regulations and Rules of UPOV, there was no need for UPOV to launch its own procedure for the appointment of the External Auditor of UPOV (see document CC/92/20 "Report on the Conclusions", paragraph 23).

DEVELOPMENTS CONCERNING THE PROCEDURE FOR THE APPOINTMENT OF THE EXTERNAL AUDITOR OF WIPO SINCE THE NINETY-SECOND SESSION OF THE CONSULTATIVE COMMITTEE

12. A preliminary technical evaluation of the proposals received was carried out by the Secretariat of WIPO (members of the Finance Division, together with a member of the Internal Oversight Division) during October and early November 2016. The preliminary technical evaluation considered the following criteria for each of the formal proposals:

- A. Independence
- B. Qualifications of Officials and Staff
- C. Training and Experience
- D. Audit Approach and Strategy
- E. Proposed Audit Reports Structure/Timing
- F. Financial Component.

13. The results of this evaluation were forwarded to WIPO's Independent Advisory Oversight Committee (IAOC) for its review at its November session. The preliminary technical evaluation and the comments thereon from the IAOC were then sent to the Selection Panel members in early December 2016. The Selection Panel is currently determining the date of its meeting to discuss the evaluation documentation received.

14. The Consultative Committee is invited to note the developments with regard to the procedure to appoint the external auditor of UPOV for a term of office of six years starting from January 2018 reported in this document.

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