

Consultative Committee**CC/99/2 Add.****Ninety-Ninth Session
Geneva, October 27, 2022****Original:** English
Date: September 16, 2022**ADDENDUM TO PROCEDURE FOR THE APPOINTMENT OF A NEW VICE SECRETARY-GENERAL***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 provide additional information on the selection procedure for the appointment of a new Vice Secretary-General.

EXECUTIVE SUMMARY

2. The Consultative Committee is invited to note the information in this document, together with the report of the first meeting of the Ad hoc Sub-Committee concerning the appointment of a new VSG (SC-VSG), which will be circulated to the Consultative Committee at its ninety-ninth session, concerning:

(a) the practice in UPOV to encourage efforts to seek to nominate a candidate via consultations leading to consensus, while recognizing that such efforts should not result in a delay in the decision-making process;

(b) the right to vote, including in relation to State members of the Union which are in arrears in the payment of its contributions;

(c) the voting procedure; and

(d) consultations before formal voting.

INTRODUCTION

3. The information in this document is based on the legal framework applicable for UPOV and, where relevant, the practice of the World Intellectual Property Organization (WIPO) in relation to the appointment of the Director General of WIPO (document [A/59/4](#) "Appointment of the Director General in 2020", Annex I "Procedures for the Nomination and Appointment of Directors General of WIPO").

4. The practice in UPOV has been to encourage efforts to seek to nominate a candidate via consultations leading to consensus at any stage of the selection process, while recognizing that such efforts should not result in a delay in the decision-making process.

5. The following information on the selection process, including the voting procedure, is provided both as a basis to facilitate consultations and to ensure that members of the Union are in a position to take the necessary measures, should a vote be required.

RIGHT TO VOTE

6. The UPOV Convention provides as follows concerning the right to vote:

Votes

Article 26(6) of the 1991 Act

“(6) [Votes] (a) Each member of the Union that is a State shall have one vote in the Council.

“(b) Any Contracting Party that is an intergovernmental organization may, in matters within its competence, exercise the rights to vote of its member States that are members of the Union. Such an intergovernmental organization shall not exercise the rights to vote of its member States if its member States exercise their right to vote, and vice versa.”

Article 16(3) of the 1978 Act

“(3) Each member State of the Union shall have one vote in the Council.”

Arrears in contribution

Article 29(5) of the 1991 Act

“(5) [Arrears in contributions] (a) A State member of the Union which is in arrears in the payment of its contributions may not, subject to subparagraph (b), exercise its right to vote in the Council if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding full year. The suspension of the right to vote shall not relieve such State member of the Union of its obligations under this Convention and shall not deprive it of any other rights thereunder.

“(b) The Council may allow the said State member of the Union to continue to exercise its right to vote if, and as long as, the Council is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.”

Article 26(5) of the 1978 Act

“(5) (a) A member State of the Union which is in arrears in the payment of its contributions may not, subject to paragraph (b), exercise its right to vote in the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The suspension of the right to vote does not relieve such State of its obligations under this Convention and does not deprive it of any other rights thereunder.

“(b) The Council may allow the said State to continue to exercise its right to vote if, and as long as, the Council is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.”

VOTING PROCEDURE

7. The Rules of Procedure of the Council provide as follows with regard to voting (document [UPOV/INF/7](#)):

Rule 24: Voting by Secret Ballot

“(1) All elections and decisions concerning States or individuals shall be voted on by secret ballot if at least two delegations so request.

“(2) Voting by secret ballot is governed by special regulations, which form the annex to the present Rules of Procedure and are an integral part thereof.”

Rule 29: Election for a Single Post

“When a single elective place is to be filled and none of the candidates obtains the required majority in the first ballot, additional ballots shall be taken which shall be restricted to the two candidates having obtained the greatest number of votes.”

Rules for Voting by Secret Ballot (Annex to document UPOV/INF/7)

Rule 1

“In order to vote, delegations must be properly accredited.”

CONSULTATIONS BEFORE FORMAL VOTING

8. WIPO document A/59/4, Annex I, states as follows:

“III. Decision-making process

“1. Where there are more than three candidates, before any formal vote is taken, an indication of the relative support enjoyed by candidates may be assessed by means of a 'straw poll'. The 'straw-poll' will be conducted in such a way that each member of the Coordination Committee which has a right to vote will mark its first and second choice on the list of candidates on his voting paper. Voting will be by Secret Ballot. [...]”

9. The Consultative Committee is invited to note the information in this document, together with the report of the first meeting of the Ad hoc Sub-Committee concerning the appointment of a new VSG (SC-VSG), which will be circulated to the Consultative Committee at its ninety-ninth session, concerning:

(a) the practice in UPOV to encourage efforts to seek to nominate a candidate via consultations leading to consensus, while recognizing that such efforts should not result in a delay in the decision-making process;

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