

# Palestinian Membership In UNESCO Could Raise Questions For US At WIPO

Date: 21 October 2011

Source: Intellectual Property Watch

Link: <http://www.ip-watch.org/weblog/2011/10/21/palestinian-membership-in-unesco-could-raise-questions-for-us-wipo/>

Members of the Paris-based United Nations Educational, Scientific and Cultural Organisation (UNESCO) are preparing to allow Palestine to become a member, according to sources. If this happens, it could create uncertainty about United States membership in UN agencies, including the World Intellectual Property Organization.

Palestinian membership is not expected to have a significant impact on WIPO per se ? as WIPO is not heavily dependent on government contributions like other UN agencies ? but it could have ramifications for the United States, which according to reports has laws that may prevent the US from making contributions to a UN agency if Palestine is a member.

Under Article 5.1.i. of the WIPO Convention, any state that is a member of a UN specialised agency (such as UNESCO) is eligible for membership at WIPO. So if Palestine is recognised by UNESCO, it would be eligible to take the unilateral steps to become a WIPO member too. It would have to deposit an instrument of accession. There does not appear to be an approval process such as a vote by existing membership or a committee.

The WIPO director general likely would be the recipient of the deposit of the instrument of accession. It is not clear what else the DG?s role might entail.

WIPO declined to comment on the issue of Palestinian membership.

WIPO is funded differently than other UN agencies, because instead of receiving direct government support (less than 10 percent of its budget), the vast majority of its funding comes from fees paid by users of its services ?

mainly international patent filing, and mainly private sector. Only about 1 percent of WIPO funding is from US government contributions, according to sources.

UNESCO, by contrast receives some 22 percent of its funding ? or about \$80 million by one account ? from the US government.

Even if this happens, it is unlikely that the United States would have to pull out of WIPO quickly, and so would continue to participate in committees and with staff working at WIPO (in influential posts). There are several WIPO members who have not paid their membership contributions for years and they have not had to leave.

But if in fact the United States did not amend its law and eventually did have to pull out of WIPO, this would be an enormous change for the UN agency in which the US plays a powerful and often leadership role.

The United States was not a member of UNESCO for years, and only recently rejoined. Shortly after rejoining in 2003 after a 19 year hiatus, it met with a slap in the face as UNESCO members voted overwhelmingly to pass a cultural diversity treaty that was seen in essence as a vote against US cultural hegemony and which the US vigorously opposed (IPW, United Nations, 17 October 2011 [1]). The final commission vote was 151 in favour, 2 opposed. Those opposed? The US and Israel.

It is also worth noting that the US is the biggest source of patent fees for WIPO, which earns the majority of its revenue from patent fees. There were occasional calls in recent years from the US IP industry (which pays those fees) for the US to pull out of WIPO if it could not achieve breakthroughs in advancing global IP policy such as harmonisation of national patent laws. But in order to use the Patent Cooperation Treaty, WIPO's leading fee-generator, it is not necessary to be a member of WIPO, just a member of the PCT.

It is true that WIPO members have had to work hard to reach agreement on normative issues. But for many, it would probably be inconceivable for the US to pull out of WIPO.

Keywords: Palestinian / UNESCO / US / WIPO