

# WIPO



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## WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

### ASSEMBLIES OF THE MEMBER STATES OF WIPO

**Thirty-Seventh Series of Meetings  
Geneva, September 23 to October 1, 2002**

REPORT OF THE FIFTH SESSION OF THE PROGRAM  
AND BUDGET COMMITTEE

*Document prepared by the Secretariat*

1. The Program and Budget Committee, at its fifth session held from September 9 to 11, 2002, discussed the proposals contained in the Revised Project Budget for the New Construction and Revised Program and Budget for 2002 - 2003 (document WO/PBC/5/2) and the Evaluation Report of the External Auditor on the New Construction prepared by the Swiss Federal Audit Office (document WO/PBC/5/3). The views of the Member States represented at the Committee on these proposals, are contained in its report (WO/PBC/5/4) which is annexed to this document.

2. *The Assemblies of the Member States of WIPO and the Unions administered by WIPO, each as far as it is concerned, are invited to take note of the contents of the Annex.*

[Annex follows]

## ANNEX

1. The fifth session of the WIPO Program and Budget Committee, hereinafter referred to as "the Committee," was held at the headquarters of WIPO from September 9 to 11, 2002.
2. The members of the Program and Budget Committee are the following States: Algeria, Argentina, Bulgaria, Canada, Chile, China, Czech Republic, Ecuador, Egypt, France, Germany, Honduras, Hungary, India, Japan, Mexico, Morocco, Netherlands, Nigeria, Norway, Oman, Pakistan, Republic of Korea, Russian Federation, Senegal, Slovakia, South Africa, Sri Lanka, Switzerland (*ex officio*), United Kingdom, United States of America, Uzbekistan and Venezuela (33). The members of the Program and Budget Committee which were represented at the session were the following: Algeria, Canada, China, Czech Republic, Ecuador, Egypt, France, Germany, Honduras, Hungary, India, Japan, Mexico, Morocco, Netherlands, Nigeria, Oman, Pakistan, Republic of Korea, Russian Federation, Sri Lanka, Switzerland (*ex officio*), United Kingdom, United States of America and Venezuela (25). In addition, the following States members of WIPO but not members of the Program and Budget Committee were represented as observers: Angola, Bangladesh, Barbados, Belarus, Benin, Croatia, Democratic People's Republic of Korea, Denmark, Ethiopia, Ghana, Greece, Guatemala, Ireland, Italy, Latvia, Lithuania, Madagascar, Portugal, Saudi Arabia, Spain, Sudan, Sweden, Thailand, Tunisia, Uganda, Ukraine (26).
3. Discussions were based on documents WO/PBC/5/2 ("Revised Project Budget for the New Construction and Revised Program and Budget for 2002-2003") and WO/PBC/5/3 ("Evaluation Report of the External Auditor on the New Construction").
4. The session was opened by Mr. Philippe Petit, Deputy Director General, who welcomed the participants on behalf of the Director General.
5. The Committee unanimously elected Mr. Jennes H. A. C. De Mol (Netherlands) as Chairman and Ms. Natalia Ageenko (Russian Federation) and Mrs. Preeti Saran (India) as Vice-Chairpersons of the Committee.
6. The Chairman invited any observations on the draft agenda contained in document WO/PBC/5/1 Prov. The Committee agreed that discussion on item 5 "Evaluation Report of the External Auditor on the New Construction" should precede discussion on item 4 "Revised Project Budget for the New Construction and Revised Program and Budget for 2002-2003." An item 6 on "other business" was also added. The agenda was adopted.
7. The Chairman invited the External Auditor, the architect of the winning project and the Secretariat to introduce the Evaluation Report of the External Auditor on the New Construction (see document WO/PBC/5/3) and the Revised Project Budget for the New Construction and Revised Program and Budget for 2002-2003 (see document WO/PBC/5/2).
8. The External Auditor summarized its Evaluation Report on the New Construction, presented in document WO/PBC/5/3. He noted that the evaluation report was based on a version of the new construction project dated November 2001. The report contained a number of recommendations, including the need to redefine a number of technical aspects of the project in line with the modern nature of the building and its efficient operation. In particular, the report proposed to further study the concepts relating to heating, ventilation, air conditioning and electrical supply requirements in light of available technologies and WIPO's needs and potential synergies with existing buildings and infrastructure. It proposed to reformulate the acoustics' concept of the conference hall project and to plan it in a way to

minimize any potential additional risks identified in the evaluation process. The report noted that WIPO and its Assemblies will have to decide whether to build a conference hall and additional storage spaces, to reallocate surfaces in the administrative building increasing working places per office, to adapt technical concepts according to the audit proposals, and to set up external management mechanisms in order to better define the project's needs and requirements and provide adequate oversight of its implementation. The importance that final tender documents were based on the detailed project to avoid any potential cost increases was stressed. The External Auditor concluded by quoting paragraph 76 of document WO/PBC/5/3: "I should like finally to mention that the comments in this report have been formulated on the basis of not only the individual observations made by experts, but also their overall impressions, which impressions I share, being conscious at the same time of the complexity of such a project and the difficulties inherent in it. The same complexity is to be found in the formulation of a specification reflecting the needs of the client, and its interpretation by the architect." The Auditor then invited all the delegates to become involved in what he qualified as a complex, ambitious and exciting project, so that the work that started with architectural competition in 1999 for the creation of the working facilities that WIPO needs, could be continued.

9. The architect presented project plans and designs, noting that the project work continued to progress allowing for greater confidence regarding financial projections. The architect stressed that the new construction project could not be considered as a stand-alone building as it formed, together with other buildings, a whole in infrastructure designed for WIPO. It would provide essential elements to the entire WIPO infrastructure, such as a conference room, additional storage space, library, restaurant and cafeteria. The administrative building with 560 working places would constitute a new element of the whole setting providing storage rooms, parking facilities and meeting areas. The conference hall would provide 650 seats divisible into two rooms of 450 and 200 seats. The ground floor of the administrative building would house important facilities designed for common use. The building would be connected to the existing WIPO building through internal connections. It would be characterized by a flexible structure allowing an additional 500 to 650 working places. From an architectural point of view, the new building could be considered as a state-of-the-art addition to the existing WIPO facilities. The work was carried out in collaboration with environmental engineers to improve the energy use and optimize the atmosphere in the building for office occupants. Internal gardens functioning as greenhouses would assure an access to natural daylight in all office areas. The greenhouses and winter gardens would provide a climate buffer and natural daylight for the interior of offices facing the courtyards. Different floor levels would be connected through short connections in addition to elevators for easier access. Offices would be furnished with windows which could be opened enabling a natural air exchange. Roof window with shadow devices would allow an optimum level of natural daylight while keeping the direct sunlight out.

10. The Secretariat provided a summary of the Revised Project Budget for the New Construction and Revised Program and Budget for 2002-2003 presented in document WO/PBC/5/2. It recalled that a large number of consultations had been undertaken to identify office needs for WIPO and ways to meet them since 1990 when the new construction project had been first proposed. It also recalled that in September 1998, the General Assembly of WIPO had approved the new construction project comprising an office building for 500 workplaces, a conference room for 600 seats and additional parking facilities. In 2001, Members States requested an objective evaluation of the new construction project, which was carried out and presented in a report to the current session of the Program and Budget Committee by the Federal Audit Office of the Swiss Confederation (hereinafter referred to as

“Federal Audit Office”). In this regard, the Secretariat extended its appreciation and gratitude to the Federal Audit Office for the numerous consultations and extensive information provided to the Member States and the Secretariat. The Secretariat further expressed its hope that the current session of the Committee would recommend a final position on these matters to the Assemblies of WIPO. It recalled that since 1998, when the construction project was approved, WIPO had continued to increase its activities and had undertaken a number of new initiatives with the approval of Member States aimed at the demystification of intellectual property. The proposed investment in the new construction project would constitute a strategic contribution towards the fulfillment of this long-term goal for the Organization. The Secretariat recalled that the new construction project comprised three components: a new office building, a conference room and additional parking facilities. The Secretariat indicated that following the recommendations of the evaluation report it would work with the architect and engineer to increase the number of working places from 500 to 560 in order to enhance space efficiency. The Secretariat also proposed to implement the recommendations of the report about the optimization of technical installation to maximize cost savings. In this regard, the remainder of the year 2002 will be used to further readjust technical design and specifications (see paragraph 46 of document WO/PBC/5/2). With regard to the conference hall, the Secretariat proposed that a hall with 650 seats as recommended in the evaluation report be constructed. The Secretariat was of the opinion that a strategic consideration of WIPO's needs would outweigh the profitability concerns regarding the conference hall. On the indication that no sufficient justification should be provided by WIPO for additional parking/storage facilities (see paragraph 68 of document WO/PBC/5/3), the Secretariat indicated that the premises' plan table 2 of Annex II of document WO/PBC/5/2 revealed that it would be difficult to provide the desired level of parking space to staff members, even if a 66 per cent ratio between working places and parking spaces as recommended by the Federal Audit Office was adopted which did not include needs for visitors and delegates. It outlined that certain storage spaces foreseen in the project could be reserved for possible conversion into additional parking places in the future. The Secretariat further proposed to conduct a study on additional parking facilities (see paragraph 16 of document WO/PBC/5/2). The recommendation contained in the evaluation report to reinforce project management by providing Member States with regular status reports was also supported by the Secretariat.

11. The Secretariat further elaborated on the financial aspects of the revised proposal. The revised project for the new construction presented a total budget envelope of 190.5 million Swiss francs. The total budget envelope included an amount of 157.5 million Swiss francs for the administrative building with 560 offices and 33 million Swiss francs for the conference hall with 650 seats. The Secretariat referred to the evaluation report by the Federal Audit Office which had confirmed that the previous estimate of 180 million Swiss francs submitted in 2001 provided “a realistic package” to allow the project “to be completed.” The revised budget reflected a number of adjustments, such as increases of 34 million Swiss francs for risk contingency, furniture, management costs and secondary fees, partly offset by budget reductions of 23.5 million Swiss francs associated with the deletion of the proposed additional storage and parking for delegates, visitors and staff. The evaluation report also agreed with the assessment by the Secretariat in 2001 that the budget of 82.5 million Swiss francs approved in September 1998 “was a serious underestimate.” The Secretariat noted that the funding of the project budget was elaborated in the context of revised income estimates for a period up to 2009, based on updated assumptions with regard to the level of applications and registrations under the WIPO global protection systems and services. The Secretariat considered it possible to fund the construction from existing reserves and the annual revenue stream, without resorting to external borrowing. Moreover, the funding of the construction would not require an increase in fees or contributions. Furthermore, the revised project

budget was also reflected in a revision of the program and budget for the 2002-2003 biennium. Essentially, the biennium budget for the new construction would be reduced by 2.5 million Swiss francs to 49.8 million Swiss francs, reflecting delays in the project implementation due to the introduction of the evaluation process. The Secretariat again recalled that the new construction project was initiated over 10 years ago. Approval of the administrative building and conference hall concept was already given in 1998. Progress in the planning and preparatory work achieved so far have provided Member States information and confidence to decide on the necessary budgetary allocation. To a large extent, this was due to the work of the Federal Audit Office and the architect Behnisch, Behnisch and Partners (BB&P). The project would be an attractive financial investment and complement existing facilities as well as the operation of the Organization. The administrative building would provide much needed facilities, which were currently rented at a cost twice as high as the new facility would allow. WIPO's rental cost was close to reaching 20 million Swiss francs annually, a situation that put an excessive burden on the funding of the Organization. Once available, the building would improve WIPO's cost structure substantially. Such cost reductions would be returned to Member States and the users of WIPO's services in the form of program activities and fee adjustments. The conference hall would provide much needed facilities to accommodate the growing number and size of WIPO intergovernmental meetings. Much interest focused on alternatives to the conference hall, namely the use of outside facilities, and the question of profitability. The Secretariat recalled some of the observations contained in the evaluation report, which stated with regard to meetings at WIPO that the "number of participants has tripled in 10 years." With regard to the availability of facilities outside WIPO, the report noted "lack of infrastructure which complicates the reservation problem." The evaluation report indicated that the conference hall was not profitable. The report then continued that "experience has shown that profitability is seldom achieved with a conference room." Justification for such a facility were found in the "objectives and future needs and also in the convenience and independence that it affords." The report continued: "I would recommend the planning of a 650-seat room that is divisible into two rooms of 450 and 200 seats." The Secretariat provided further comments on two issues pertaining to the conference hall, namely viable alternatives and profitability. As illustrated in the report, WIPO required a conference hall, which accommodated between 400 and 650 participants. In this range, the infrastructure in Geneva was limited. United Nations facilities for such meetings were booked out well in advance. One facility, namely the main hall at the United Nations, which accommodated over 1,300 participants, was available. However this facility was not considered appropriate for WIPO's regular meetings. The high vacancy rate for this United Nations facility seemed to indicate that it was also not appropriate for other United Nations organizations. With regard to the cost of the conference hall, the evaluation report indicated that the annual cost amounted to 2.25 million Swiss francs, including the cost of maintenance as well as the funding costs. The cost of renting outside facilities, if available, was estimated at 750,000 Swiss francs annually. The net cost for WIPO would therefore amount to 1.5 million Swiss francs annually, which corresponds to less than one percent of the WIPO budget, a percentage rate expected to decrease even further in the coming years. As noted, the annual cost included maintenance and funding costs. The financing cost had been calculated on the basis of an initial investment of 30 million Swiss francs over 40 years at 3.25 percent interest. As noted, the conference hall would be funded entirely through resources available to WIPO and without incurring financing costs associated with borrowing. Of the annual cost of 2.25 million Swiss francs, only 900,000 Swiss francs related to the annual maintenance costs for the new facility. This amount exceeded the cost of renting outside facilities by only 150,000 Swiss francs annually, equivalent to 0.05 percent of the annual WIPO budget. It is noted that the calculation on profitability which had been outlined in the evaluation report took a conservative approach. It excluded possible income generated

by WIPO through renting out the new facilities. This approach was considered appropriate. Nevertheless, the report noted that "WIPO should be able to recover part of the annual operating costs by renting its rooms to other organizations." For this purpose, the report continued by recommending "to set up a commercial department to manage the three WIPO conference rooms." The Secretariat intended to do this and expected to generate income from the new conference facility by making the rooms available to other organizations. This would be done in close cooperation with the United Nations administration as the new conference hall should be considered as part of common facilities available to the United Nations System. In conclusion, the Secretariat wished to emphasize that work had progressed on the new construction awaiting budget approval in order to issue the maintenance documents towards the end of this year. It indicated that frequent reports on project progress, including the budgetary evolution, would be provided to Member States whose guidance and approval were actively sought. In this regard, the next opportunity would be the budget process for the 2004-2005 biennium as the Program and Budget Committee would meet in spring 2003 and the documentation for the new biennial budget would include a progress report in the form of an updated presentation.

12. The Delegation of the United States of America, speaking on behalf of Group B, expressed its appreciation to Mr. Grüter, the Auditor General of the Federal Audit Office, for his prompt and positive response to the request of the General Assembly of WIPO in 2001 to conduct an evaluation of the new construction project, as well as for the high quality and timeliness of the analysis. It also extended its appreciation to Mr. David Reber and Mr. Denys Neier of the Federal Audit Office for the systematic coordination and attention provided to the concerns of Member States of WIPO. It noted the importance for WIPO of having the necessary tools and facilities to meet its objectives in the most effective and cost-efficient manner and for Member States to be kept informed of the Director General's planning and full implications for the Program and Budget. It said that the financing of the project should be thoroughly validated as soon as possible, either through an independent audit by a third party or by efforts of those members of WIPO with an expertise relevant to workload projections and the implementation of electronic filings systems. While the need for additional WIPO-owned workplaces was seen as evident, it advocated the approval of a building project which should be functional, utilitarian, modern and fully operational, designed to answer the precise needs and functional requirements of the Organization. The architectural project of BB&P was seen as the basis for this project, provided appropriate adjustments were made. It considered that the Secretariat and its technical partners should provide for a significant further increase in the number of working places in the new building so as to bring the working place ratio more in line with the other building projects used for comparison by the External Auditor. Early proposals on the number of parking spaces calculated with regard to norms in Geneva and adjusted according to the increased number of working places and requirements for diplomatic parkings should be provided. It said that various technical assessments made in the evaluation report, including those concerning energy use and costs savings, should be fully complied with. Moreover, the Delegation stressed the importance of sound management and oversight structures for the project, and endorsed the recommendation of the External Auditor that a highly qualified professional project manager, external to the Organization, be selected and given appropriate responsibility and authority. This was seen as essential for continuity in order to contain costs within the appropriate parameters. It also considered it vital to take an early, but fully informed decision on this project so as to deliver the benefits as soon as possible. It proposed that the Program and Budget Committee recommend that the Assemblies authorize the Committee or its representatives to work directly with the Secretariat, the architect and technical experts throughout the process of adjusting concepts and designs and that the Assemblies delegate to

the Program and Budget Committee the authority to provide an approval for the beginning of construction.

13. The Delegation of Algeria, speaking on behalf of the African Group, expressed its appreciation to the Federal Audit Office for the high quality of its evaluation report and to the Secretariat for the transparent manner in which consultations on the new construction project were conducted. It noted that the recommendations made by the External Auditor would provide reliable parameters for the project implementation. The Delegation, while noting the conclusion of the evaluation report on the discrepancies between the initial budget estimates and real needs and the fact that the estimate of 180 million Swiss francs was realistic, however hoped that the new construction would not negatively affect activities on cooperation for development. The Delegation also believed that it was unrealistic to completely eliminate additional parking facilities for visitors and government delegates. On the issue of the conference hall, the Delegation recognized it as an integral part of the building project as reflected in the decisions of the supreme bodies of WIPO. In conclusion, the Delegation supported the revised project budget for the new construction and the revision of Sub-Program 18.4 (New Construction) of the Program and Budget for 2002-2003, as proposed in document WO/PBC/5/2.

14. The Delegation of India, speaking on behalf of the Asian Group, conveyed its gratitude to the Federal Audit Office and to the Secretariat for the documentation provided. It summarized the Committee's tasks at this session: firstly, to review the observations of the External Auditor on the new construction contained in the evaluation report and, secondly, to consider the proposals contained in document WO/PBC/5/2 and to make appropriate recommendations to the Assemblies of WIPO. It noted from Table 1 on page 2 of document WO/PBC/5/2 that the Secretariat had incorporated in its proposal all the important estimates and suggested modifications made by the External Auditor. It enumerated these suggested modifications as follows: the number of workplaces in the new administrative building will increase from 500 to 560; the number of seats in the conference hall will increase to 650 in order to have the possibility of holding all WIPO meetings on the Organization's premises; and the dropping of the earlier proposals for additional storage and parking spaces. It further noted the increase in the project budget to 190.5 million Swiss francs, in line with the External Auditor's estimates. With the new construction, the Delegation noted the expected decline in WIPO reserves as expenditure exceeds projected income in the next four years. It noted that due to WIPO's prudent financial management, its current reserves were adequate to ensure that the new construction would not have an adverse effect on its development cooperation program. It further noted with satisfaction that at the end of the last biennium, WIPO's reserves of 264.4 million Swiss francs were almost equal to its annual operating budget. It concluded that there should not be a need to curtail any of the Organization's substantive programs due to the new construction. It expressed its hope to see an increase in WIPO's cooperation for development programs at the same level of growth as it had been in the recent past. It also expressed its wish to see increased participation of experts from the Asia Pacific region in WIPO meetings in Geneva and elsewhere. However, it conveyed the Group's difficulty in accepting the suggestion made by the External Auditor that there is no need to provide parking spaces for delegates attending WIPO meetings. It expressed its view that private cars will continue to be the norm for most delegates and urged the Secretariat to reconsider its deleting of that provision in the current proposal. Furthermore, the Delegation requested clarification on cantonal rules governing underground parking spaces. It recognized the advantages of a WIPO-owned conference facility. It was of the opinion that justifications for the conference room should not only be based on economic costing, but rather on other considerations, such as the inefficiencies and missed opportunities brought

about by the lack of such a facility. It was of the view that the new construction project will enhance WIPO's effectiveness and efficiency, which could be translated into enhanced support to WIPO in developing countries. The Delegation concluded by expressing its support to the revised proposals subject to the observations made regarding construction of parking spaces for delegates.

15. The Delegation of China expressed its appreciation for the work of the Swiss Federal Audit Office and the Secretariat. It expressed its support to WIPO's efforts to bring up efficiency by various means; for example, the construction of a new working building and the conference room. However, it was of the opinion that there should be a balance between the limited resources and the need of meetings service. It expressed its support to the views made earlier by other delegations on the provision of additional parking spaces for delegates attending WIPO meetings. The Delegation concluded by expressing its support to the proposal on the new construction budget and the budget for the 2002-2003 biennium.

16. The Delegation of Belarus, speaking on behalf of certain countries of Central Asia, Caucasus and Eastern Europe, expressed its hope that the 10-year discussion on the new construction would finally be completed.

17. The Delegation of the Russian Federation, speaking on behalf of the same regional group, commended the Secretariat and the External Auditor for the clear and exhaustive work presented in the documents. It was of the opinion that the report by the External Auditor is well-founded, convincing and deserving of the Committee's full attention. However, it noted the increase in the financial ceiling which requires the Committee to approach the issue with caution. The Delegation expressed its hope to finally adopt a decision about the construction because a delay would result in cost increases. It expressed its view that while it will be possible to recommend to the Member States of WIPO to endorse the project budget and revised program for 2002-2003, it might be necessary to revise the existing controls systems governing the present implementation of the budget and the reserves.

18. The Delegation of Mexico expressed its gratitude to the Federal Audit Office, the architect and the Secretariat for their efforts in presenting the documents for this session. It expressed its support to the budget of 190.5 million Swiss francs for the new construction of the new building, including the conference hall, noting that this will not have an adverse effect on the Organization's development cooperation activities. It associated itself with the concern expressed by other delegations regarding additional parking spaces and storage space. It also expressed its concern on the delay of the new construction as these delays also translate into budget increases.

19. The Delegation of Latvia, speaking on behalf of the Central European and the Baltic States, praised the Federal Audit Office for its excellent work on the documents provided. It expressed its regret on the inaccuracies in the initial assessment of construction costs and the delay of the construction processes which contributed to additional costs for the project. It expressed its hope that the coming Assemblies will adopt the proposal and the construction could start immediately.

20. The Delegation of Egypt commended the Secretariat and the Federal Audit Office for the excellent reports provided. It expressed its support to the Secretariat's proposals as they are essentially in line with the report of the Federal Audit Office, and that adopting these proposals should not have an adverse effect on WIPO's cooperation for development activities. It associated itself with the opinion expressed by the Delegation of Mexico



regarding parking spaces for delegates. As regards the conference hall, it expressed its agreement to the views of the International Bureau that working and flexibility needs in conference planning should be considered.

21. The Delegation of Venezuela commended the Secretariat and the Federal Audit Office for the excellent documentation. It recognized the need for WIPO to work in an efficient and effective manner, as well as facilitating the work of the delegations. It associated itself with the statements made by the Delegation of the United States of America on behalf of Group B as regards to the increase in the number of working spaces. It also associated itself with the views expressed by the Delegation of India with regards to the need to increase parking spaces both for WIPO officials and for delegates. It was of the view that many of the recommended technical adjustments by the External Auditor should be carried out because of its importance for the project, in particular with regards to heating, ventilation and air-conditioning. It expressed its reservations on the suggestion of renting out the conference hall to provide an added source of income as it was of the opinion that the Secretariat will have limited possibilities of renting it out given the increased number of meetings the Organization requires. It expressed its hope that approving the current proposal will not have an adverse effect on the cooperation for development activities of the Organization. Finally, it said it was not in a position to endorse the suggestion of the representative of Group B about converting this Committee into a supervisory body. e

22. The Delegation of the United Kingdom commended the Federal Audit Office for its excellent and comprehensive work, as well as the architect and the Secretariat for the cooperation provided. It stressed the importance for additional working places and the need to bring the new building in line with other building and projects in Geneva in terms of volume and cost per workspace. As regards the conference center, it expressed its agreement with the need for a conference facility of 650 seats. However, it said that WIPO should make full use of outside facilities available as part of the United Nations System. It expressed reservations about whether the new construction will not have any effect on other activities of the Organization. It was of the view that the non-availability to the other programs of the amount to be spent on the new construction should be recognized. The Delegation expressed having difficulties understanding how it would be possible that such use of funds would not affect technical cooperation and other aspects of the Organization's business. It further stated that as regards to parking, it was concerned to hear that so many delegates had to park illegally around the building and mentioned that a conference facility at the Palais would offer sufficient parking spaces and therefore reduce the delegates parking problem, insisting that the two issues were linked and that it would alleviate the problem to some extent. The Delegation further expressed its support of the statement made by Group B in relation to project management, so that the recommendation contained in the External Auditor's report be put in place. It also supported the comments made by the Delegation of Venezuela as to the number of technical revisions that seemed required on the project. It concluded by saying that the United Kingdom would not be in a position at the present time to recommend approval of the construction plan to the Assemblies until such plan is revised by incorporating the comments made in the External Auditor's report. It also stated not being in a position at this stage to approve the proposed budget of 190.5 million Swiss francs. ot

23. The Delegation of Honduras supported the Secretariat's proposal on the new construction, including the conference hall, provided it did not affect development programs. It expressed its confidence that under the Director General, the budget for the new construction would be handled wisely, effectively and in a transparent manner. As to the e

parking area, it supported the views of other delegations as to the importance of having enough parking spaces.

24. The Delegation of the United States of America conveyed its appreciation to all who had been involved in preparing the updated analysis of the building project and all the associated supporting documents. The Delegations said it had one main concern related to the method of financing the project. It stated that the concern was not the estimated amount but rather how the financing would be secured. It continued that there were several aspects to the issue, but wished to focus on what it believed to be its two main aspects: first, whether WIPO assumed for the foreseeable term of the project (for the next seven years), an annual estimate of increased workload, particularly for the applications filed under the PCT, ranging from seven to nine percent. Second, concerning WIPO estimates of internal savings to be derived from its investments in Information Technology Projects. In both cases, the Delegation deemed the estimates not to be well-founded at this point of time. It said that, for the first time in many years, the USPTO had experienced negative filings in the range of minus one percent compared to the same time last year. It said it was not yet able to evaluate for how long that trend would continue as it depended on economic variables. The Delegation believed that growth on filings under PCT for the near future might not exceed six percent and might possibly grow by no more than four percent annually, assuming there would be some slight positive growth between now and the end of the calendar year. It added that if such positive growth did not occur, the estimates would be revised accordingly, but considered that four to six percent estimates were realistic for now. As to the issue of the 23 percent estimated savings to be derived from the investments in the IMPACT Project (Information Management for the Patent Cooperation Treaty), it noted that WIPO relied upon a study conducted in 1998 and used that 23 percent estimate to calculate the contribution that those savings would make to the financing of the building. It continued that by WIPO's own statement, that report was obsolete. It believed that the study that was conducted in 1998 had little resemblance to the way the IMPACT Project had evolved over the last four years. It continued that from USPTO's own experience on Information Technology investments over a long period of time, these investments yielded small tangible savings and, in that respect, it was not confident that the 23 percent estimate in cost savings had a solid foundation. It was of the opinion that before a capital investment project of the magnitude of the new construction be undertaken, there should be a revalidation, on the one hand, of the revenue forecast as it would be the principal form of payment in addition to the reserve funds and, on the other hand, of any cost savings to be derived from Information Technology investments. It expressed its concern that without such revalidation, the Program and Budget Committee and ultimately the Assemblies might be faced with having to make quick alternative funding decisions, should the assumptions provided by WIPO prove to require a new decision. It continued that it would like to have those fundamental investment concepts validated at the earliest practical time, as said in the Group B statement. It believed those validations could be done either by an independent third party or by willing Member States of WIPO who had expertise in these areas. It thought that all Member States would benefit from having a solid financial plan rather than what it perceived to be at this point a questionable one.

25. The Delegation of Canada conveyed its support to the Chairman and expressed its appreciation to the Secretariat, the Federal Audit Office and the architect for their work in preparing this meeting. It said that it remained concerned with regard to the conferenceroom, stating that the annual reports of the United Nations Committee on conferences regularly reported significant under-utilization of UN-owned conference facilities in Geneva, and continued that as the External Auditor's report highlighted, there was no clear economic argument so far that had been made to support the construction of a new conferenceroom. It



given its 13 million Swiss francs cost. It therefore expressed its support for the WIPO building project without the additional storage space and without the conference facility. It added that it believed that the budget allocation in a range between 144 and 158 million Swiss francs was more reasonable, based on WIPO's current needs and resources. It further recommended that WIPO rent the services of a professional private contractor to oversee the management of the building project.

30. The Delegation of France supported the statement made by the Delegation of the United States of America on behalf of Group B. The Delegation also indicated it was very pleased by the efforts undertaken by the External Auditor, the architects and the Secretariat, keeping Member States informed. It found the report to be very useful to understand the evolution of the cost of the project. In order to limit costs, it hoped that funds set aside for unexpected costs would not be exceeded, that the number of workspaces be increased to the maximum and that a system be established in order to allow Member States to be continuously updated and informed about the progress of the project.

31. The Delegation of Guatemala associated itself with the statements made by other delegations, in particular, those made by the United States of America and the United Kingdom, questioning the usefulness of having a conference hall.

32. The Chair noted the appreciation and satisfaction conveyed by several delegations to the Secretariat, the Federal Audit Office and the architect for their efforts in putting together the documents for this meeting, the support most delegations expressed on the proposal by the Secretariat, the desire expressed by a number of delegations not to delay the decision-making process, the need for assurance, expressed by some delegations, that the building activities will not have an adverse effect on the cooperation for development programs of the Secretariat, and the great importance placed on the proposed increase in the Organization's workspaces. It went on to mention the need, felt by a number of Delegations, to abide by the technical requirements and suggestions of the External Auditor. It recalled further the suggestion made by some delegations, in particular Group B, to have a clear supervisory body, such as the Program and Budget Committee, to oversee the implementation of the new construction project. It also said that some questions were raised on the underlying assumptions made on the financial estimates and funding mechanisms. The Chair noted that the vast majority of the delegates supported the construction of the conference hall. It acknowledged, however, that there were oppositions to the proposal. The Chair went on to say that while there were delegations suggesting to make greater use of UNOG facilities, there were also those who stressed the need for autonomy and independence in light of the future needs of the Organization. The Chair also recalled that a number of delegations raised the issue of parking facilities for delegates attending meetings. Finally, the Chair expressed satisfaction with the proposed budget reduction for the 2002-2003 biennium, and then invited the Secretariat to address the issues that had just been mentioned.

33. The Secretariat, in response to the questions raised by the Delegation of the United States of America on funding and projections, referred to paragraph 76 of the document WO/PBC/5/2, which showed that budgetary requirements were funded from a combination of the projected annual income stream and available reserves. It noted that as part of the previous reform, the special reserve fund for premises had been integrated with the reserves of the Unions. Those reserves formed part of the resources available to fund the biennial budget, including the building and information technology projects. This was done while maintaining the reserves at the level approved by Member States, which it was approximately 18 percent of the total biennial budget. It noted that examination of the funding requirements for the

construction project was done in conjunction with the funding requirements of the Organization as a whole. This was seen to avoid the build up of excessive reserves which had been done in the past. This also implied, however, that no separate project reserves for the construction project were established and that no distinction was made between funding coming from annual income or reserves. In order to examine the funding requirements, the Secretariat noted that the cost of the construction amounted to 190.5 million Swiss francs while the audited reserves at the end of 2001 amounted to 264.4 million Swiss francs. Although the reserves were not used entirely to fund the construction, the available resources provided a secure and substantial funding source. The information on reserves was supplemented by projections on income and expenditure up to the year 2009. Those projections provided one scenario to illustrate the magnitude of flexibility available to the Organization and illustrated the long-term savings associated with the availability of a new administrative building and the automation of the PCT system. This was indicated in Table 15 of document WO/PBC/5/2, with the dramatic rise in the surplus based on the improvement of the Organization's cost structure. It stressed, however, that the Organization would advocate the generation of surpluses. Rather, this should be seen as an indication only of the magnitude of flexibility for developing new activities or adjusting fees. Decisions on budget, income and fees would be taken in the context of the biennial budget exercise. The projections illustrated just one scenario to emphasize the relevance of the construction project in the longer-term context. With regard to projections on the level of applications under PCT, it was noted that the Secretariat had under-estimated the number of applications and revenue in the past. The Secretariat was of the view that the new projections constituted a marked improvement as compared to previous efforts, while maintaining a somewhat conservative approach. In early 2001, the initial assumption for PCT amounted to 114,000 applications in 2002. Despite the slowdown at the end of 2001 and the beginning of 2002, this estimate was maintained in the current projections. Three months prior to the end of 2002, the Secretariat was in a position to reconfirm that this target would be met in 2002. Moreover, the Secretariat stated that its projection included indications from the United States Patent and Trademark Office for United States of America growth in US applications between 2001 and 2002. With regard to future years, projections reflected a conservative approach with a growth rate of ten percent in 2002 declining to seven percent in 2006. This compared to a growth rate of over 20 percent during recent years. Moreover, it was noted that lower than anticipated application rates would automatically translate into lower budgetary requirements. Hence, adjustments on filing applications would have a limited impact on the overall financial scenario. With regard to the budgetary implications of the information technology IMPACT project, the Secretariat stated that substantial savings were anticipated once the project became operational. The details on the extent of such savings, however, would only become clear once some experience in the operation of the new system would be available. With regard to the provision of additional parking for delegates, the Secretariat clarified that the basic requirements and conditions for the construction of the building and the additional parking places were based on the local district plan (PLQ). The Secretariat pointed out that the current PLQ authorized 280 underground parking places only. This is the reason why, the Secretariat stated, additional storage space had been reserved for possible conversion into parking places in the future, subject to authorization by the Geneva authorities. The Secretariat referred to paragraph 16 of document WO/PBC/5/2 proposing further study of the issue and assured the Committee that the Secretariat would undertake the study in view of strong support by a number of delegations on the subject. With regard to the number of workplaces, the Secretariat intended to increase the number of working places from 500 to 560 as recommended by the Federal Audit Office. The Secretariat assured the Committee that it would explore the possibility of maximizing the number of working places. With regard to project management, the Secretariat referred to paragraphs 285 and 286 of document

WO/PBC/5/3 describing the need for a coordination modality between WIPO as a client on the one hand and external project management company on the other and assured the Committee that it would follow the recommendation of reinforcing the project management structure. With regard to the reporting structure, the Secretariat stated that it would review the proposal of establishing a certain body or mechanism under the Program and Budget Committee to oversee the work of the new construction project. The Secretariat explained the difficulties in reserving, within a reasonable time-frame, suitable meeting rooms in Geneva for WIPO meetings. What was usually available was the large assembly hall in the *Palais des Nations* which, with its more than 1,300 seats, appeared to be too big for WIPO while not having smaller rooms available for coordination meetings. It stressed the advantages of building the conference hall as proposed by the Organization.

34. The Secretariat further indicated that an increase to 560 working places, representing an increase of 60 additional work places, would be possible according to the initial analysis undertaken by the engineering companies and architect. It expressed reservations, however, on increasing the workplace beyond 560. It was of the view that additional studies would be needed to look into that possibility. The Secretariat pointed out that it would be technically possible to increase the workplaces up to 650 according to the architect, but this would depend on the configuration of the office to be adopted according to the specific organizational units occupying the building. The Secretariat further stated that technical requirements made by the Auditor would be subject to further study by the engineering partners and architects from October until December this year. The Secretariat assured the Committee, however, that it intended to follow all technical recommendations, particularly, the energy cost-saving requirements, ventilation, air-conditioning, et c.

35. The architect provided additional clarification as follows: with regard to the working places, it added that the building had been planned for a certain amount of working spaces in conformity with the requirements of WIPO. However, there was flexibility in the use of the building. Such flexibility in the working places would depend on the specific configuration to be adopted of the various rooms in response to the requirements of the building occupants. It pointed out that it saw no problem in increasing the number of workplaces from 500 to 560, or even to 600.

36. The Delegation of the United Kingdom said that the need to increase workplaces was of primary importance. The Delegation pointed out that according to paragraph 259 of page 58 of document WO/PBC/5/3, the area and volume per working place appeared to be too high and should be reviewed. It requested clarification from the Secretariat on what would be the optimum number of workplaces that the Organization could hope for within the current design configuration.

37. The Secretariat said that it would review the maximum number of working places that could be considered within current constraints as the possible technical target for the readjustment of technical specifications. On this point, the architect confirmed that it might be possible to put up to 600 people in the administrative building while maintaining current structures. It noted, however, that the level of comfort would be reduced with the increase in the number of working places. The Secretariat clarified, however, that since certain areas of its operations, such as finance and registrations systems, required a certain degree of confidentiality and dealt with sensitive information, different criteria on working space configurations should be applied to them as compared to other sectors. Therefore, it could be difficult from a practical point of view to reach the indicated maximum capacity of the administrative building. However, efforts would be made to explore the creation of the

maximum possible number of working places based upon additional technical studies. On the issue of space efficiency, the Secretariat underlined the fact that the new building would not only be an intelligent office building, but it would also be a building integrated with other WIPO premises. Common facilities available at the new building would serve other premises, such as the existing WMO building, which lacked proper meeting rooms and other required facilities.

38. The Delegation of the United States of America expressed its reservations as to the financial scheme and requested confirmations concerning the fact that PCT fees were indeed projected to remain unchanged in the next seven-year period. Concern was also raised on the underlying assumptions for the financing of the project, including the mix of current income versus the use of fees reserves, as that balance could modify fee projections during project implementation.

39. Referring to paragraph 59 of document WO/PBC/5/2 with regard to PCT fees, the Secretariat noted that fees were maintained at the 2002 level while awaiting decisions on the PCT reform which was anticipated to result in a major change of the fee structure. It anticipated that such decisions would be taken by the end of 2003 and go into effect as of January 1, 2004. It further indicated that all projections and assumptions, particularly in income estimates, would be re-assessed in spring 2003 as part of the budget process for the 2004-2005 biennium. On the issue of the funding mix for the project and the possible over-estimation of projections, the Secretariat referred to Table 14 in document WO/PBC/5/2 which contained income information and estimates for PCT from 1996 to 2009. Despite the slowdown experienced during the first half of this year, a growth rate of 10 percent was confirmed for 2002. The Secretariat adopted a conservative approach by anticipating the growth rate to decline in the coming years. The Secretariat further referred to Table 15 in document WO/PBC/5/2 which indicated that a surplus would be anticipated as of 2006. With the completion of the new construction in 2007, the cost structure would be reduced due to lower rental costs and a higher surplus was anticipated to grow substantially during 2008 and 2009. Anticipated surpluses could be utilized either for new activities or adjustments in fees.

40. The Delegation of the United States of America underlined the importance of approaching the proposed cost of the new construction project, the issue of the funding mix and PCT fee levels and anticipated reserves in an integrated fashion in order to enable the Assembly to feel confident that provided estimates were sound and reliable. It reiterated the concern that such current estimates were not realistic and expressed its wish for an attempt to re-evaluate relevant assumptions as best as possible.

41. The Secretariat stated that the approach chosen in the budget proposal was one among a number of alternatives, aimed at making maximum use of available funding. Alternatively, it would be possible to establish a project fund as had been the case in the past and to cover the total budgetary requirements of the project prior to the approval. This approach had led to reserve levels which were considered excessive.

42. The Delegation of the United States reiterated its request for clarifications on the possibility of independently validating the assumptions and projections indicated in the document.

43. The Delegation of France requested the Secretariat to clarify on a number of issues. First on the issue of reserves, it noted that WIPO had those at very comfortable levels. It was

of the view that these should cover the financing of the building, provided that they were also sufficient to cover the Information Technology Projects. Secondly, it wished to have confirmation of annual rental costs, as this could be a point that even on its own would justify the investment in the new building. It noted that an annual amount of 20 million Swiss francs of office building rental costs represented 40 million Swiss francs per biennial budget. This translates into the effective repayment of the investment on a period of ten years. Thirdly, it noted the anticipated slowdown in the growth of PCT activities up to 2009. It did however note a discrepancy between the growth expected according to Table 14 of document WO/PBC/5/2 and the income growth mentioned in the same document and sought clarifications for that apparent contradiction. Fourthly, on the PCT reform and the flow of fee income expected from that registrations system, it noted that these so-called "Chapter II" preliminary examination was probably going to experience a fairly sharp decline in activity, as one of the aims of the PCT reform was to simplify the management of operations. The delegation estimated the income loss at 18 million Swiss francs per year and asked to hear the Secretariat's plans for offsetting that loss. Finally, concerning the maximum number of offices and office area, as that figure seemed to range between 600 and 700 working places, the delegation would like to know the module size per working place used in the planning for office space.

44. The Secretariat, in response to the questions of the Delegation of France, referred to part IV of document WO/PBC/5/2, which indicated information and estimates on income. The data was presented on an annual basis to provide a better illustration of the past and future trends. In addition, the data included details on the number of registrations, average fee and total income by Unions. The Secretariat then referred to Table 2 in document WO/PBC/5/2 wherein income figures were summarized by biennia. On the issue of reserves, the Secretariat referred to Table 15 in document WO/PBC/5/2, which indicated a reserve level of 264.4 million Swiss francs at the end of 2001. It was noted that the previous reform of the reserve arrangement aimed at drawing down the reserve to a reasonable level. As indicated in Table 15, this was being achieved with the implementation of a number of major projects, including IMPACT, WIPO NET, EX - WMO renovation and the new construction. A temporary decline in anticipated reserves below recommended targets during 2004 and 2005 would be reversed with additional surpluses becoming available towards 2007 and beyond. The Secretariat clarified that the re-evaluation of Chapter II income would be part of the PCT reform process, with its financial consequences being part of the fee review. With regard to the estimates under other income, the Secretariat referred to Table 13 on page 24 of document WO/PBC/5/2 and elaborated on these several elements listed. On the question of workplaces, the Secretariat explained that the size of the individual offices would depend on the grade level of the staff member occupying the office. The Secretariat cited several examples such as professional staff using 14 square meter equivalent to two units of working place, two general service staff sharing an office occupying three unit equivalent to 21 square meters, and finally a DDG level staff member requiring a much bigger office space than a typical professional staff member. It pointed out that the number of workplace units would vary depending on the categories of the staff members occupying the office. The Secretariat estimated that 560 workplaces could be achieved depending on the future office layout. A number of workplaces beyond this one, however, would require further study.

45. Following the conclusion of the deliberations and consultations among members of the Committee, the Chair read a proposed draft decision paragraph and invited the members of the Committee to make comments regarding the draft text that has just been read.



46. The Delegation of Mexico expressed satisfaction with the draft decision text. It reiterated its support for the construction of the conference hall noting that the need was apparent and resources were available. It noted that officials attending WIPO meetings were sometimes forced to sit on folding chairs or to remain outside the present conference hall because of the lack of space in the room.

47. The Delegation of Algeria, speaking on behalf of the African Group, expressed satisfaction with the draft recommendation to the Assemblies. It noted the Secretariat's assurance that the studies on the additional parking spaces would not affect the deadline of the construction project and requested information as to when these studies would be undertaken.

48. The Secretariat assured the members of the Committee that the study on additional parking spaces would be undertaken as soon as the Assemblies approved the proposed construction project. This will be done between October and December 2002, before the finalization of the project's technical design.

49. The Chair noted the consensus on the proposed text for decision.

50. With regard to agenda item 4 (Revised Project Budget for the New Construction and Revised Program and Budget for 2002-2003), welcoming the evaluation report of the External Auditors which provides a solid basis to fulfil the mandate given by the Assemblies at their 36<sup>th</sup> session in September 2001 (see document A/36/15), as well as a useful foundation for taking a timely decision at their 37<sup>th</sup> session, the Program and Budget Committee decided to recommend to the Assembly of Member States:

(i) *to approve:*

(a) *the construction of an administrative building as proposed in document WO/PBC/5/2, modified to maximize the number of working places, as well as to optimize the technical design in accordance with recommendations to achieve cost savings and efficiency gains;*

(b) *the appointment, in accordance with WIPO procurement procedures, of an external consultancy firm to participate in project management;*

(c) *the further study by the International Bureau with a view to providing for additional parking spaces and necessary consultations with Geneva authorities;*

(d) *the entrusting of the Program and Budget Committee with overseeing the construction project, in particular with*

*regard to the finalization of the technical design, receiving regular reports from the International Bureau, and the establishment of a consultation process, within the framework of the Program and Budget Committee, between interested delegations and the Secretariat in order to validate financial projections and underlying assumptions;*

*(ii) to take note of the International Bureau's assurance that the implementation of the construction project will not affect the resources available for programs in the framework of Cooperation for Development (Part III of the Program and Budget) or other priority activities of the Organization .*

*(iii) to take a decision on the proposal (document WO/PBC/5/2) to construct a conference room, on which the Program and Budget Committee was near consensus in favor, taking into account the need to coordinate with UNOG in order to maximize the utilization of conference facilities.*

51. The Chair then opened the discussion on item 6 (other business) of the Agenda.

52. The Delegation of Egypt raised the issue of the availability of documents in Arabic at certain WIPO meetings. It noted that, according to its understanding, documents in Arabic were recurrently provided at three types of WIPO meetings: the Assemblies, Diplomatic Conferences and the Program and Budget Committee. Given the growing importance of intellectual property issues, the Delegation requested the Secretariat to provide documentation in Arabic at other WIPO meetings of a more technical nature in particular at meetings of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. It highlighted the importance of the Committee's work, in particular, for developing countries. In this regard, it underlined that the availability of documents in Arabic was essential for an effective participation by Arabic speaking countries, such as Egypt, in its work, especially given that the competent authorities following these issues, as well as the holders of traditional knowledge themselves, were Arabic speaking. The Delegation recalled that it had put forward this request at all the meetings of the Intergovernmental Committee and that it received support from many delegations. It indicated that at the last meeting of the Intergovernmental Committee, in June, the Secretariat had pointed out to the need of bringing this request to the attention of the Program and Budget Committee in order to work towards its implementation.

53. The Secretariat noted the proposal made by the Delegation of Egypt. It assured the Delegation that it would study its cost implications further as well as its possible impact on WIPO's current practice regarding working languages.

54. The Delegation of Oman associated itself with the statements made by the Delegation of Egypt regarding Arabic translation. It also said that people in Oman involved in the field of Traditional Knowledge and Folklore are generally Arabic speakers, who do not speak any other language. It requested the Committee to make available resources that could be used for this purpose.

55. The Delegation of Denmark, speaking on behalf of the European Union and its Member States, raised the issue of financing the indigenous people's and local communities' participation to relevant meetings at WIPO. It referred the Committee to the draft report of the June session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (document WIPO/GRTKF/IC/3/17 Prov.) and quoted the last sentence of paragraph 30 of the document: "... With regard to the financing of participation (of indigenous people and local communities that is), the Chair noted the explanations provided by the Secretariat that the Program and Budget Committee would look further into the issue and the present Committee (GRTKF) would therefore leave the matter pending..." The Delegations sought the Secretariat's views on the possibility of implementing the recommendation.

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56. The Delegation of Mexico expressed its support to the statements by the Delegation of Denmark and suggested that such consultations should not be limited to the regional coordinators only but rather it should be opened to the Program and Budget Committee and to any interested member of the Organization.

57. The Delegation of Venezuela expressed its support for the proposal made by the Delegation of Mexico on broader consultations. It stressed the need for prompt action, recalling the intentions made in the July meeting that a solution be found before the next Intergovernmental Committee meeting beheld.

58. The Secretariat stated that it would further study the cost implications of the proposal itself and the implication to other WIPO meetings. To this effect more specific information such as the number of Non-governmental Organizations (NGOs) to be invited would be needed.

[End of Annex and of document]