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Geneva, September 11 to 15, 2017

SUBMISSION BY THE DELEGATION OF THE UNITED STATES OF AMERICA ON AGENDA ITEM 9: DISCUSSION PAPER ON FUNDING ALTERNATIVES OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

The Delegation of the United States of America has submitted the attached Discussion Paper, and requested the Secretariat to include it as an official document of the twenty-seventh session of the Program and Budget Committee (PBC) under item 9 of its agenda.

[Submission by the Delegation of the
United States of America follows]

Discussion Paper on Funding Alternatives of the
World Intellectual Property Organization (WIPO)

Communication of the United States of America to the WIPO Assemblies

1 Summary

This brief paper analyzes the overall funding situation the World Intellectual Property Organization (WIPO) and seeks to initiate a discussion of alternatives to address the growing imbalance in WIPO funding and the long-term financial health of the organization. The suggestion of alternatives is not intended to be exhaustive, nor to exclude discussion of new approaches. This paper is intended to contribute constructively to WIPO budget discussions while recognizing the health of WIPO's current fiscal situation.

WIPO enjoys a strong financial position primarily due to the success of its Patent Cooperation Treaty (PCT) system, which generates 75 percent of WIPO's overall income. The strength of the PCT, however, masks weaknesses in WIPO's other fee-funded systems, namely the Madrid, Hague, and Lisbon systems. These other systems do not proportionally contribute to the expenses of the organization, nor, in certain cases, do they make any contribution at all to shared costs. In fact, none of these other systems currently cover a proportional share of the overall cost of WIPO's programs, and thus are all subsidized by the PCT.

The WIPO Capital Master Plan for 2018–2027 presents several capital investments projects to be funded from the healthy reserves of WIPO. The proposed funding of these projects, however, would also be subsidized by the PCT system. This is because the "capacity to pay" principle is contemplated, according to a note in Table 5 of the Master Plan (WO/PBC/26/9).

The assessed government contributions to WIPO, which make up less than 5 percent of WIPO's budget, do not fund the growing expenses they were meant to cover because of the over-

dependence on PCT income. Any further reduction of the government contributions would increase the burden on the PCT system in funding the overall organization.

2 WIPO Income, Expenditures, and Reserves in 2016

WIPO is a financially healthy institution that consistently has an overall surplus in its budget. Table 1 shows WIPO's financial performance for 2016. WIPO's IPSAS-adjusted income in 2016 was 387.7 million Swiss francs, while its expenditures totaled 355.7 million francs, leaving it with annual surplus of 32.0 million francs and a cumulative reserve of 311.28 million francs.

Table 1. WIPO financial performance, 2016 (millions of Swiss francs)

Total income	387.7
Total expenditures	355.7
Net surplus	32.0
End-of-year total reserves	311.28

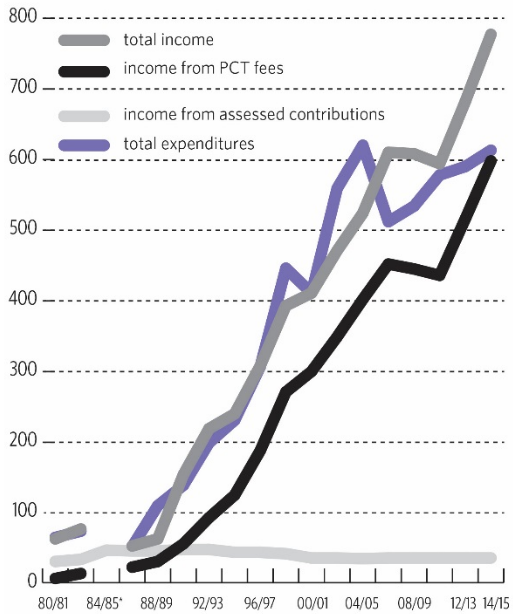
Note: Figures have been adjusted in accordance with International Public Sector Accounting Standards (IPSAS).

Source: WIPO Financial Report and Financial Statement, 2016, p. 6

3 Time Series of WIPO Income and Expenditures

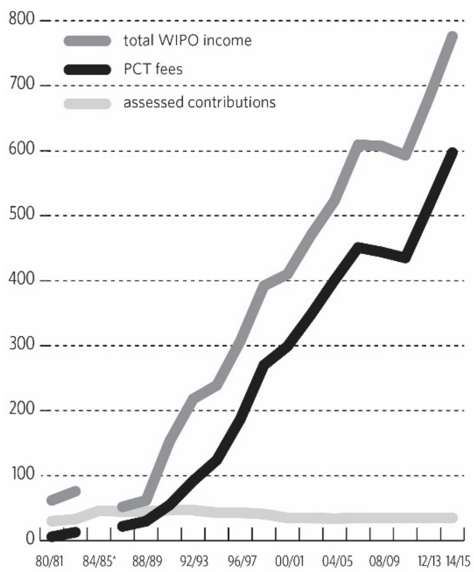
WIPO has experienced substantial increases in both its income and expenditures over the past 35 years. It has also experienced significant shifts in its sources of income, as PCT fees have increasingly become the primary source, accounting for as much as 76 percent of WIPO's total income. Figure 1 shows WIPO income and expenditure biennially for the years 1980 to 2015. While WIPO's income has exponentially increased over that time, it is clear that PCT fees are now the primary source of income. At the same time, WIPO members' assessed contributions have declined slightly and are now dwarfed as a proportion of total income because of the rapid growth of PCT income. Figures 2 and 3 show this trend, with PCT fees amounting to 76 percent in the 2014/15 biennium.

Figure 1: WIPO income, by source, and expenditures, 1980/81 through 2014/15 bienniums (millions of Swiss francs)



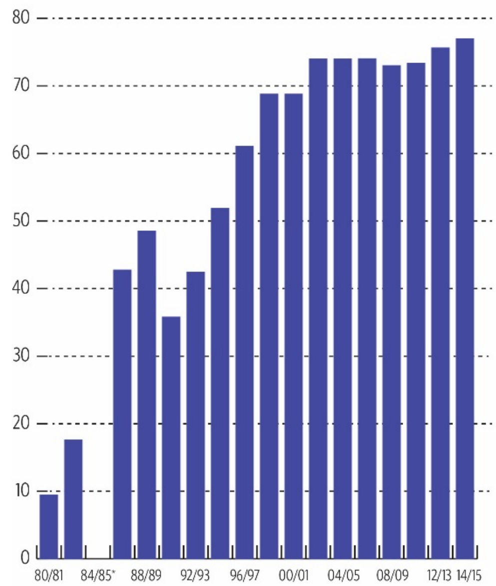
Note: Complete data unavailable for the 1984/85 biennium.
Sources: WIPO budget reports and financial statements through 2016.

Figure 2: PCT fees, assessed contributions, and total WIPO income, 1980/81 through 2014/15 bienniums (millions of Swiss francs)



Note: Complete data unavailable for the 1984/85 biennium.
Sources: WIPO budget reports and financial statements through 2016.

Figure 3: Income from PCT fees as share of total WIPO income, 1980/81 through 2014/15 bienniums (percent)



Note: Complete data unavailable for the 1984/85 biennium.
Sources: WIPO budget reports and financial statements through 2016.

4 WIPO Reserve and Working Capital Funds (RWCF) With Current Methodology

According to the WIPO budget methodology currently used, the PCT and Madrid Unions generate substantial surplus income. For instance, the Madrid Union is shown having an IPSAS-adjusted surplus of 8.15 million Swiss francs in 2015 that brought its total reserve up to 55.17 million francs. Table 2 shows the 2015 financial performance for each of the unions. The Hague and Lisbon Unions both had deficits in 2015, and remain insolvent overall.

Table 2. WIPO's Reserve and Working Capital Funds (RWCFs) at the end of 2015 (thousands of Swiss francs)

	Contribution-financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*
RWCFs in 2014	21,965	147,671	47,013	(7,327)	(503)	208,819
2014/2015 income	37,065	602,575	125,168	9,065	1,850	775,723
2014/2015 expenditures	33,589	479,082	114,355	13,238	2,333	642,597

2014/2015 reserve income	7	7	7	6	6	33
2014/2015 reserve expenditures	4,141	26,974	8,330	874	38	40,357
2014/2015 IPSAS adjustments	3,610	(31,504)	5,663	(331)	4	(22,558)
Surplus (or deficit), IPSAS basis	2,952	65,022	8,153	(5,372)	(511)	70,244
RWCF balances at end of 2015, IPSAS basis	24,918	212,692	55,167	(12,699)	(1,015)	279,063

Source: WIPO, *Financial Management Report for the 2014/15 Biennium* (A/56/8).

The financial performance of each union is further illustrated by showing the difference in their target reserve for the 2014/2015 biennium and their actual reserves at the end of 2015, as shown in Table 3.

Table 3. Target and actual: WIPO's Reserve and Working Capital Funds (RWCFs) at end of 2015 (thousands of Swiss francs)

	Contribution-financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*
2014/2015 RWCF actual balances	24,918	212,692	55,167	(12,699)	(1,015)	279,063
End of 2015 RWCF target balance	17,755	76,162	28,635	2,195	n/a	124,746
Excess of Target	7,163	136,530	26,532	(14,894)	(1,015)	154,317

Source: WIPO, *Financial Management Report for the 2014/15 Biennium* (A/56/8).

5 Proportional Allocation of Indirect Costs

WIPO does not allocate all expenses proportionally, and instead uses the "capacity to pay" principle in allocating costs for many common expenses. WIPO incurs indirect union expenses that are defined as "expenditures for Programs not directly related to the activities of the Unions" and indirect administrative expenses that are defined as "share of the costs of all administration and management-related Programs under Strategic Goal IX … and not allocated as Direct Administrative Expenses."[1] These expenses are shared by the unions according to what WIPO has determined is their capacity to pay.[2] WIPO uses a formula that takes as input a predetermined reserve target in calculating each union's contribution to the indirect costs.

An alternative approach would be to use each union's share of direct expenses as a reasonable approximation of what their indirect costs would be. Using this proportional allocation methodology, Table 4 provides estimates of how much each union could be expected to contribute toward WIPO's indirect costs in the 2018/2019 biennium.

Table 4. WIPO's 2018/2019 budget with proportional allocation of indirect costs (thousands of Swiss francs)

	Contribution-financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*
2018/19 Income	**32,378**	**637,353**	**143,114**	**12,324**	**993**	**826,162**
Direct union expenditures	22,622	242,850	66,869	14,626	1,419	348,386
Direct administrative expenditures	9,882	124,320	42,534	10,281	818	187,835
Sub-total, direct expenditures	32,505	367,169	109,403	24,907	2,238	536,222
Sub-total share, direct expenditures (percent)	6.06%	68.47%	20.40%	4.64%	0.42%	100.00%
Indirect union expenditures	7,803	88,140	26,263	5,979	537	128,722
Indirect administrative	3,693					60,914

[1] See a 2015 WIPO briefing to all Member States, "Current Methodology for the Allocation of Income and Expenditure by Union Applied in the Proposed Program and Budget 2016/17."
[2] Ibid., where WIPO's methodology for calculating "capacity to pay" is explained.

expenditures		41,710	12,428	2,829	254	
Sub-total, indirect expenditures	11,495	129,850	38,691	8,808	791	189,636
Total, 2018/19 expenditures	**44,000**	**497,019**	**148,094**	**33,715**	**3,029**	**725,857**
Estimated IPSAS adjustment to budget	1,736	28,615	6,967	1,330	120	38,768
Total expenditures after IPSAS adjustments	**45,736**	**525,634**	**155,061**	**35,045**	**3,149**	**764,626**
Operating Result	**(13,358)**	**111,719**	**(11,947)**	**(22,721)**	**(2,156)**	**61,536**

The Operating Result in Table 4 indicates that only the PCT Union is able to fully cover its own costs and a proportional share of the common expenses. The other unions would have a negative operating result for the biennium, while the overall result would remain unchanged, with a surplus of 61.5 million Swiss francs.

6 Capital Master Plan

Using each union’s share of direct costs for the 2018/2019 biennium, the proportional contribution to funding of the Capital Master Plan Projects for the 2018/19 biennium can be calculated. In this case, all costs that are exclusively PCT- and Madrid-related are allocated to their corresponding unions. These are the Resilient Secure Platform for PCT (phase I), Madrid IT Platform, and PCT building additional works. All other costs are apportioned according to the unions’ share of direct costs. The estimates of the costs that each union would incur using this proportional allocation is shown in Table 5.

Table 5. Cost sharing of 2018/2019 Capital Master Plan projects, using proportional allocation (thousands of Swiss francs)

	Contribution -financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*
2018/19 Income	**32,378**	**637,353**	**143,114**	**12,324**	**993**	**826,162**
Sub-total, direct expenditure	32,505	367,169	109,403	24,907	2,238	536,222
Sub-total share, direct expenditure (percent)	6.06%	68.47%	20.40%	4.64%	0.42%	100.00%

Global IP Platform (phase I)	276	3,113	928	211	19	4,547	*ICT related projects*
Resilience Secure Platform for PCT (phase I)		8,000				8,000	
Madrid IT Platform			6,000			6,000	
Conference Registration System	56	637	190	43	4	930	
Sub-total: ICT related projects	332	11,750	7,117	254	23	19,477	
Creation of multimedia studio	103	1,164	347	79	7	1,700	**projects**
PCT building additional works	118	1,335	398	91	8	1,950	
Systems/mechanical installations	105	1,185	353	80	7	1,730	
Sub-total, building-related projects	326	3,684	1,098	250	22	5,380	
Fire systems	13	151	45	10	1	220	**systems**
Security equipment	24	274	82	19	2	400	
Sub-total, security-related projects	38	425	126	29	3	620	
Total share of project-related costs	**696**	**15,859**	**8,342**	**533**	**48**	**25,477**	

A comparison of the allocations proposed by WIPO with a proportional allocation of costs is shown in Table 6. The proportional allocation would reduce the PCT Union's share from 18.2 million Swiss francs to 15.9 million francs, a 12.7 percent reduction. Table 6 shows the amount that each of the unions would contribute to the Capital Master Plan Projects based on the proportional allocation methodology, and how it differs from WIPO's proposed allocations.

Table 6. Cost sharing, by union, of 2018–2027 Capital Master Plan projects under WIPO's cost sharing proposal and under a proportional allocation of costs (thousands of Swiss francs)

	Contribution-financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*

Proportional allocation of costs	696	15,859	8,342	533	48	25,477
WIPO proposal	250	18,167	7,061	—	—	25,477

It is estimated that the Capital Master Plan will cost between 90.1 and 100.1 million Swiss francs over the period 2018–2027. Table 7 shows how these costs would be distributed across the different unions if a proportional allocation methodology was applied for the shared costs.[3] (Each of the unions' reserves from the 2014/15 biennium are also provided for reference.)

Table 7. Distribution, by union, of costs for WIPO's 2018–2027 Capital Master Plan projects, using proportional allocation (thousands of Swiss francs)

	Contribution-financed Unions	*PCT Union*	*Madrid Union*	*Hague Union*	*Lisbon Union*	*Total*
Total share of project-related costs, 2018–27	3,198–3,804	67,512–74,359	16,764-18,804	2,450–2,915	220–262	90,143–100,143
RWCF actual balances in 2014/15 biennium	24,918	212,692	55,167	(12,699)	(1,015)	279,063

7 Conclusion

WIPO's financial well-being could be strengthened in the long term by giving consideration to a more balanced funding of the organization's activities and its capital expenditures. Member states, in making decisions related to funding of WIPO activities, should be cognizant of the current imbalances in the funding of WIPO's activities among the various unions. And each WIPO union should be informed of the effect on its financial position when deciding on the funding of the organization as a whole.

[3] Note that the PCT Union is assumed to solely incur the cost of 23.4 million Swiss francs for Phase II of the Resilient Secure Platform for PCT.