

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

## **PROGRAM AND BUDGET COMMITTEE**

### **Fourth Session**

**Geneva, September 17 to 20, 2001**

#### REPORT

*Adopted by the Committee*

1. The fourth session of the WIPO Program and Budget Committee, hereinafter referred to as “the Committee,” was held at the headquarters of WIPO from September 17 to 20, 2001.
2. The members of the Program and Budget Committee are the following States: Algeria, Bulgaria, Canada, Chile, China, Colombia, Croatia, Ecuador, Egypt, France, Germany, Hungary, India, Jamaica, Japan, Mexico, Morocco, Netherlands, Nigeria, Norway, Pakistan, Paraguay, Philippines, Republic of Korea, Russian Federation, Senegal, Slovakia, South Africa, Sri Lanka, Switzerland (*ex officio*), United Kingdom, United States of America and Uzbekistan (33). The members of the Program and Budget Committee which were represented at the session were the following: Algeria, Bulgaria, Canada, China, Colombia, Croatia, Ecuador, Egypt, France, Germany, Hungary, India, Jamaica, Japan, Mexico, Morocco, Netherlands, Nigeria, Philippines, Republic of Korea, Russian Federation, Senegal, Slovakia, South Africa, Sri Lanka, Switzerland (*ex officio*), United Kingdom, United States of America (28). In addition, the following States members of WIPO but not members of the Program and Budget Committee were represented as observers: Angola, Bahrain, Bangladesh, Belarus, Belgium, Congo, Côte d’Ivoire, Democratic People’s Republic of Korea, Ghana, Haiti, Honduras, Indonesia, Iraq, Ireland, Kenya, Latvia, Lebanon, Lithuania, Madagascar, Portugal, Republic of Moldova, Romania, Spain, Sudan, Sultanate of Oman, Thailand, Tunisia, Turkey, Ukraine, Uruguay, Venezuela and Viet Nam (32). The list of participants is provided as the Annex.

3. Discussions were based on documents WO/PBC/4/2 (“Revised Draft Program and Budget for the 2002-2003 biennium”), WO/PBC/4/2 Add. 1 (“Continuation of the PCT OCR Project”) and WO/PBC/4/3 (“Premises: The New Construction”).
4. The session was opened by Mr. Yoshiyuki Takagi, Director, Office of Strategic Planning and Policy Development, who welcomed the participants on behalf of the Director General.
5. The Committee unanimously elected Mr. Arturo Hernández Basave (Mexico) as Chairman and Mr. Milan Majek (Slovakia) and Mr. Michael Meigs (United States of America) as Vice-Chairmen of the Committee.
6. The Chairman invited any observations on the draft agenda contained in document WO/PBC/4/1 Prov. In the absence of any comment, the agenda was adopted.
7. The Chair invited the Secretariat to introduce the Revised Draft Program and Budget 2002-2003 (see documents WO/PBC/4/2 and WO/PBC/4/2 Add. 1).
8. The Secretariat provided a summary of the Revised Draft Program and Budget 2002-2003 presented in document WO/PBC/4/2. The budget proposed by the Director General amounts to 678.4 million Swiss francs and represents an increase of about 20 per cent as compared to the budget of the current biennium. This is to be funded by an income of 531.8 million Swiss francs and surplus resources of 146.6 million Swiss francs, accumulated during previous biennia. The increase is required to meet the market-driven demands for global protection systems and services, notably under the PCT, Madrid and Hague systems and the on-line domain name dispute resolution service. At the same time, major infrastructure investments are to be undertaken to ensure efficient operation in the years ahead. All of these were proposed together with major reductions in PCT fees, which at the end of 2003 will be reduced by 45 per cent compared to the 1997 level. The Secretariat recalled that the current presentation of the budget was the result of a long process, including the third session of the Program and Budget Committee in April 2001 and numerous informal consultations with regional groups, coordinators and interested Member States. Further to the request of the Program and Budget Committee, the document covers the total budgetary requirements of WIPO and integrates the two documents on budgetary issues submitted to the Committee in April 2001. The Revised Draft Program and Budget 2002-2003 covers the budget and activities previously presented under the regular budget, as well as those for Information Technology (IT) and building projects not covered under the regular budget. During its April 2001 session, the Committee, while requesting the consolidation of the budget documents, expressed broad support for the proposed budgets and levels of fees and contributions. Therefore, the new budget presentation was limited to a reformatting exercise with no changes in budget proposals which were already reviewed by the Committee in April 2001. The new presentation fully integrates income, reserve and surplus funds and maintains the new features introduced in the budget format during the April 2001 session, including a revised budget for the current biennium; detailed income projections; a resource plan for 2000-2001 and 2002-2003 for income, expenditure and reserves; the codification of budgetary practice, including the detailed description of various budget stages and the description of flexibility formulas for budget adjustments; and a new arrangement for budget allocation by Unions. In addition, financial indicators for a ten-year period from 1996 to 2005, which illustrate the rapid growth of WIPO, in particular of the PCT Union, are featured for the first time. The growth in resource utilization is anticipated to peak during the 2002-2003 biennium, in part due to the implementation of major IT and building projects

funded from surplus resources. With the conclusion of those projects, a lower growth in resource utilization as a result of efficiency gains from automation and a reduction in rental cost due to the utilization of new WIPO-owned facilities could be anticipated. The Secretariat also noted that the current review of the budget proposal was also seen to constitute a convincing conclusion of the reform process in the financial area launched a couple of years ago and presented to the Program and Budget Committee in September of 2000. With the two-stage budget process, the involvement of Member States in budget formulation increased considerably, and the improved transparency and information further facilitated the budget review process. The new policy on surplus and reserves, the abolition of the Special Reserve Fund and the introduction of reserve targets assure the efficient management and safeguard the financial health of the Organization, while putting available resources to work for the benefit of Member States and user organizations.

9. The Secretariat referred to an addendum to the Revised Draft Program and Budget 2002-2003 on the implications of recommendations by the Information Technology Projects Working Group (ITPWG) following the decision of the Program and Budget Committee at its April 2001 session to submit all activities proposed as separate IT projects for 2002-2003 for technical review to the Working Group of the Standing Committee on Information Technologies (SCIT). The addendum presents a recommendation of the ITPWG to introduce an additional project for 2002-2003, namely the continuation of the PCT Optical Character Recognition Scanning or OCR Project. If the additional budgetary requirement of four million Swiss francs, as outlined in document WO/PBC/4/2 Add.1, is approved, the overall budget will go up from 678.4 million Swiss francs to 682.4 million Swiss francs.

10. The Chairman of the ITPWG provided a summary of the conclusions of the technical review of document WO/PBC/3/3 on IT projects carried out by the Working Group following a request of the Program and Budget Committee at its meeting held in April 2001. The Working Group had carried out the review at its first session held in Geneva from September 3 to 7, 2001. The first three projects for consideration, WIPONET, IMPACT and PCT Electronic Filing (E-filing) represented the continuation of existing major automation efforts into the 2002-2003 biennium. As to the WIPONET Project, the Working Group had sought and received confirmation from the Secretariat about the viability of the system which was assured through different measures, such as the leasing of equipment and the outsourcing of facilities like the Helpdesk. However, in recommending the project and its budget for approval, the Working Group had noted the fact that the budget estimates for 2002-2003 were based on a number of variables, including the number of user licenses required and the use of the system by individual intellectual property Offices (IPOs), which would affect the level of required resources. Concerning the IMPACT Project, which covered the automation of PCT activities, the Working Group noted that an increase in funds for the 2002-2003 biennium was required to meet the cost of running the current PCT computer systems and the new IMPACT computer systems in parallel. It was also noted that the efficiency savings realized through the full implementation of the new system would have more effect on the PCT budget for 2002-2003 than the IT budget. The Working Group supported the IMPACT Project as presented recommending its endorsement to the Program and Budget Committee.

11. With regard to the PCT Electronic Filing Project, a number of essential points had been brought to the attention of Delegates by the Secretariat. Firstly, that the project had been originally foreseen under the scope of the IMPACT Project. However, following the Diplomatic Conference on the Patent Law Treaty in 2000, it was agreed that IPOs could make the electronic filing of patent applications mandatory as of June 2, 2005. This had raised the importance of the PCT Electronic Filing Project, and it was decided by the Director General

that it should become a separate project in its own right. Secondly, central to the implementation strategy of the project was the intention to evaluate existing electronic filing systems, such as those in use in the European Patent Office (EPO) and the United States Patent and Trademark Office (USPTO), and to reuse components of those systems to the greatest extent possible, bearing in mind the requirements of the PCT. Thirdly, the Secretariat would make the maximum use of the technology deployed in other IT projects at WIPO, such as WIPONET, and would build upon the success of the existing PCT-EASY product which was currently used for 32 per cent of PCT applications. In clarifying the proposed budget of 18.3 million Swiss francs, the Secretariat had provided a breakdown of costs, noting that the budget covered the three years required for completion of the project and that it included funds for 14 staff who also supported the current PCT-EASY system. The Working Group recommended the PCT E-filing Project and its budget for approval by the Program and Budget Committee. In agreeing the proposed budget, the Working Group noted a number of variables that could affect the level of required funds. These included the risks associated with the implementation of the security mechanism, the "Public-key" infrastructure (PKI), and the yet unproven technical standards contained in Annex F of the PCT Administrative Instructions and these could result in an increase in the proposed budget. Whilst opportunities presented by existing electronic filing systems and technology may result in a decrease in the level of required funds.

12. The Working Group also reviewed two new automation projects. CLAIMS will automate the next phase of the IPC reform initiative and build upon the work already completed in this area under the IBIS Project. The Working Group noted the success of earlier IT efforts in the area of IPC reform and recommended the new project and its budget for approval. The Working Group also welcomed the proposal to replace WIPO's existing finance system under the AIMS Project as being a well documented and timely initiative that deserved the support of Member States.

13. Under other matters the Working Group had also considered the implications of the cessation of the activity, PCT OCR, which captures the full text of a PCT application in a format that can be used to populate computer databases. The budget and contract for this activity expire at the end of 2001 and its continuation is not foreseen in the draft program and budget for 2002-2003. As great importance and priority were attached to the activity, the Working Group recommended an increase in the IT budget of four million Swiss francs to cover the continuation of the activity in the next biennium.

14. Speaking on behalf of Group B, the Delegation of France conveyed the Group's satisfaction to the Director General, to the Office of the Controller and to the Office of Strategic Planning and Policy Development. The Group was pleased with the new consolidated presentation of the draft Program and Budget, which included coverage of information technology and premises projects. It expressed satisfaction at the new presentation for the biennium, which was accompanied by an account of the long-term implications in terms of six-year cycles. It expressed satisfaction regarding the integration of budgetary surpluses and reserve funds, previously excluded from the budget, which now appeared under budget policy and presentation, adding that the budget also featured clearer performance indicators. Group B had praise in general for the International Bureau's successful efforts designed to achieve greater transparency for the benefit of Member States. It did however consider that there was still work to be done at the level of general planning, including financial planning. It believed that a detailed analysis of needs and projects should be systematically submitted to the corresponding Standing Committees for approval, pointing out that the experiment whereby the Program and Budget Committee had transferred IT

projects to the SCIT for consideration had been particularly profitable, and that it seemed essential that such projects continue to be evaluated by the SCIT in the same way. The Group also pressed for the continuation of the Optical Character Recognition Project for scanning published PCT applications. It considered that exercise was an extremely important one and that the International Bureau would be able to find the necessary funds for financing it by savings likely to be implemented in the IT sector or elsewhere. Finally, Group B once again requested the International Bureau to take whatever action necessary to ensure that meeting documents were in future distributed in all WIPO languages, and in good time, so that they might be thoroughly examined by all delegations. It went on to say that such time limits and delays could be made into performance indicators to be included in future program and budget documents and also in WIPO activities reports. The Group said that it would complete the present statement with an additional statement when the question of the premises was considered. It asked for consideration of the draft Program and Budget under item 4 of the agenda not to be concluded before item 5 had been considered, as in its opinion the two items were inseparable.

15. The Delegation of India, speaking on behalf of the Asian Group, commended the Secretariat for the open and transparent consultations held with delegations and expressed its support for the Revised Program and Budget proposals contained in WO/PBC/4/2 and addendum 1. It referred to the continued emphasis of the budget for the next biennium on WIPO's cooperation for development programs. WIPO's support for the increased participation by experts from the Asia-Pacific region and developing countries was requested. In particular, the importance of the assistance to least developed countries (LDCs) under Main Program 12 in meeting their obligations and in putting into place a modern and more effective IP system was underlined. It also conveyed its support for WIPO's proposal for substantial investments in IT projects noting the interests of the developing and LDCs in accessing technology and knowledge. In particular, the investment in WIPONET Project would help to bridge the gap between developed and developing countries. The need to upgrade services provided by WIPO through its IMPACT and E-filing Projects in meeting the demands of the Internet revolution was also noted. The E-filing Project was also seen as a fulfillment of the Director General's commitments to developing countries to provide necessary technical assistance in their endeavor to make mandatory electronic filing in the framework of the Patent Law Treaty. The Asian Group extended its support for the creation of a new program on the IP-related needs of small and medium-sized enterprises (SMEs). With regard to the sub-program on Genetic Resources, Traditional Knowledge and Folklore, it welcomed its content and pointed out that the program allows the Member States to reflect on a sensitive subject, which remains an area of genuine concern for developing countries.

16. The Delegation of Mexico expressed its support for the proposed revised draft budget, totaling 682.4 million Swiss francs as contained in document WO/PBC/4/2 as well as the PCT OCR Project contained in WO/PBC/4/2 Add.1. It expressed nonetheless its concern at the reduction of funding for Main Program 8. It noted the Secretariat's explanation that this budget reduction is due to the fact that the Diplomatic Conference on the Protection of Audiovisual Performances was held this year and funding would be discontinued in the next biennium. However, it requested the International Bureau to continue to pursue initiatives in the area of copyright development, while wishing that funds could be channeled into the budget for any proposals made by Member States. It also requested an increase in this item for the next biennium.

17. The Delegation of the Russian Federation commended the Secretariat for the documents submitted and expressed satisfaction that a number of points expressed earlier by the

Delegation were taken into account. It affirmed its support for the Program and Budget as well as the proposals on IT projects. It noted with satisfaction the timely presentation to the committee of documents translated into Russian, and its importance in developing a genuine multi-linguistic culture within the Organization. However, it noted that in the Russian version of the revised Program and Budget document, all of the tables with figures were in English. The Delegation requested the Secretariat to ensure that a full Russian translation of the document be made at the final version of the Program and Budget document.

18. The Delegation of Algeria, speaking on behalf of the African Group, commended the Secretariat for its handling of the sessions of the Program and Budget Committee as well as all the improvements that have been introduced in this new presentation of the Program and Budget. It acknowledged that these improvements introduced in the document were based on the requests of Member States. The Delegation encouraged the Secretariat to continue to pursue activities that began during the 2000-2001 biennium, particularly in providing assistance on capacity building to developing countries in the area of legislative assistance. The importance of these activities in the economic and social development of the region was also acknowledged. The Delegation expressed the African Group's satisfaction with the budgetary increase of 14 per cent allocated for development cooperation activities, as this will improve the various linkages between intellectual property and technological innovation as well as investment promotion. The Delegation further expressed its wish to see WIPO supporting the activities of developing countries, particularly of LDCs, in taking advantage of intellectual property in the areas relating to traditional knowledge and folklore, biological diversity and electronic commerce, and that particular attention should be made to the needs of LDCs in promoting development cooperation activities. It also acknowledged the role of the International Bureau in strengthening Intellectual Property awareness among the Member States. Satisfaction was expressed on the progress of WIPONET, and it hoped that WIPO would be in a position to provide national offices with the necessary resources. In conclusion, the Delegation expressed its support to the draft Program and Budget for the 2002-2003 biennium.

19. The Delegation of Germany, speaking on behalf of the European Community and its Member States, recalled the Chair's conclusion from the last meeting of the Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT) in March 2001, wherein it was stated that it was not possible to reach a consensus on how to proceed on the subject of geographical indications. It further recalled that the International Bureau was requested to undertake informal consultations with members of the SCT in preparation for its seventh session, and further indications by the Director General suggested a compromise proposal according to which, *inter alia*, no discussion should take place at the next meeting of the SCT on its future work relating to geographical indications. In view of these facts, while emphasizing that it is not the intention to block the adoption of the Revised Draft Program and Budget 2002-2003, it expressed its belief that it would be premature at this time to adopt activities relating to geographical indications as contained in sub-program 05.2 of the document. In this respect, the Delegation (i) clarified that the adoption of the Program and Budget should not be viewed as a substitute for future decisions of the SCT in the field of geographical indications and that they should only be taken as indicative and should not contain any obligation to carry out the activities referred to, and (ii) said that the study on establishing guiding principles on issues concerning the protection of the geographical indications was contained in document SCT/6/3. It was on this basis that activities for sub-program 05.2 should be viewed only as indicative, that decisions on the future work regarding geographical indications rests with the SCT, for which adoption of the Program and Budget does not constitute a substitute, and finally states that due account of the work being

conducted by other international organizations should be taken into account to avoid duplication.

20. The Delegation of Colombia commended the Secretariat for the clear structure of the documents and emphasized the importance for it of the Organization's support in the protection of copyright and related rights. Given the projections for the future and taking into account that Colombia had joined the PCT, it mentioned the importance of stimulating the enhancement of the physical, technological and human infrastructure, and of modernizing the country's intellectual property systems. It highlighted the importance attached in the Program to the initiatives of developing countries and the priority given to the development of human resources.

21. The Delegation of Ukraine noted with satisfaction the development of WIPONET, IMPACT and the PCT, as well as electronic filing. It acknowledged the importance of these programs to Ukraine and expressed its satisfaction with the budget allocated to these programs including the proposed budget of four million Swiss francs for PCT OCR. In summary, the Delegation supported the Revised Draft Program and Budget 2002-2003.

22. The Delegation of Bulgaria, speaking on behalf of the Central European and Baltic States, expressed its satisfaction that agreement has been reached in principle following detailed debate conducted during the previous months. It acknowledged that thanks to the transparency in the discussions, there has been a clear understanding of the various issues involved. The Delegation was ready to support the document. It also expressed its appreciation to the Delegation of Germany speaking on behalf of the European Community regarding its proposal on geographical indications which it would like to be in a position to review. It hoped, however, that this proposal would not be an impediment to approving the Program and Budget as currently proposed.

23. The Delegation of Oman commended the Secretariat for the excellent documents that had been prepared, and welcomed the budgetary allocation for cooperation for development as contained in the document. It noted with satisfaction WIPO's commitment to providing assistance to developing countries, thus allowing them to keep up with modern technological developments in the area of intellectual property. The participation of experts from various developing countries in the Organization's activities was also acknowledged.

24. The Delegation of China commended the Secretariat for its transparency in preparing the documents. It expressed its support to provide the Director General with adequate flexibility in program implementation, while stressing the requirement to consider the needs of the developing countries. It noted that the increase in the budget of cooperation for development demonstrated the importance the Director General attaches to this area. The increase in the budget of Information Technology was seen as beneficial to Member States and would contribute to the narrowing of the digital gap between the developed and the developing countries.

25. The Delegation of Switzerland commended the International Bureau for the work undertaken in the preparation of the meeting as well as the documents and associated itself with the statement made on behalf of Group B. It recalled that it had also congratulated the Secretariat for its work last April on the program and budget, while underlining the importance of transparency in the process. It expressed its satisfaction on the improvements introduced to the Revised Draft Program and Budget, which is seen to be in response to the requests made by Member States. It noted that the current presentation of the budget in a

single document facilitates budgetary review and decision making. The Delegation encouraged the International Bureau to continue along this line. The Delegation further noted that WIPO needed a solid and reliable structure in order to face major challenges such as developing International Law in the area of Intellectual Property. The Delegation expressed its belief that sufficient resources should be allocated in this area of Intellectual Property International Law. With regard to the issue of geographical indications, it was noted that there had been no change to the text of the Program and Budget even if requests had been made by numerous delegations. The Delegation said that at the last meeting of the SCT in March, it had not been possible to reach a consensus on this matter in spite of the considerable interest expressed by many delegations. In view of this fact, the Delegation suggested that it would not be appropriate within the context of the Program and Budget to assume just a simple continuation of the work of the SCT in the way in which it operated in the 2000-2001 biennium as contained in the draft Program and Budget. It believed that the Program and Budget Committee should not take a decision at this time. It recalled that many delegations expressed similar views at the last meeting of the Program and Budget Committee. Furthermore, the Delegation supported the proposal made by the Delegation of Germany on behalf of the European Community, and stated that given the current situation, that proposal represented a good compromise solution. In the absence of consensus as to the future work to be undertaken by the SCT on geographical indications, sub-program 05.2 could serve only as an indication and should not, in any way, be binding on the future work of the SCT. The Delegation further stressed the need to avoid duplication of work with other international organizations regarding this matter. On Information Technology, the Delegation noted the importance of investments in the area and stressed the need to take advantage of developments from other organizations on the subject, as was the case with the EPO on electronic filing of patents, and to try to take account of opportunities for joint action.

26. The Delegation of Hungary associated itself with the position of the Group of Central European and Baltic States and expressed support for the Revised Draft Program and Budget 2002-2003. It pointed out two initiatives by the Hungarian Patent Office in relation to the Revised Draft Program and Budget 2002-2003: firstly, the suggestion of the Hungarian Patent Office to establish a specialized IP education center in Budapest; this work could be implemented within the framework of sub-program 14.3 or Main Program 13; secondly, the intention of the Hungarian Patent Office to participate together with other national and regional Offices and the International Bureau in the establishment of an international database of industrial designs; this proposal could be considered under sub-programs 15.2 or 07.1 as it relates to the operation of the Hague System. Finally, the Delegation associated itself with the position of the Central European and Baltic States Group as stated by the Delegation of Germany concerning the issue of geographical indications.

27. The Delegation of the Republic of Korea associated itself with the statement made by the Delegation of India on behalf of the Asian Group and expressed its appreciation to the Secretariat and support for the Revised Program and Budget 2002-2003. It also extended its support to the program and budget for IT projects, which would help to reduce the gap between developed and developing countries. It pointed out the substantial differences between the initial and revised budgets for 2000-2001, including income estimates and the difficulties associated with the provision of such estimates in rapidly changing environments. In order to address this difficulty, the Delegation suggested that WIPO consider the replacement of the biennial budget structure by an annual budget.

28. The Delegation of Turkey associated itself with the statements made by the Delegation of Bulgaria on behalf of the Central European and Baltic States Group, and those as read out



by the Delegation of Germany, and the Delegation of Switzerland on the issue of geographical indications, noting that no consensus was yet found on the issues of geographical indications.

29. The Delegation of Portugal, having indicated that interpretation into the Portuguese language had been adopted for sessions of the General Assembly, requested that a correction be made in the number of languages mentioned in the Revised Draft Program and Budget 2002-2003.

30. The Delegation of the United States of America indicated its disagreement with the proposal made by the Central European and Baltic States that the Program and Budget Committee should make decisions on activities of the SCT. It noted that if the Standing Committee finds itself unable to continue discussions in a fruitful manner on this subject, it could take the decision to refer the matter to the General Assembly.

31. The Delegation of the United Kingdom associated itself with the statement made by the Delegation of France on behalf of Group B and emphasized the importance of the PCT OCR Project. It indicated its belief that the budget for the E-filing Project was too high and that the PCT OCR Project could be financed out of savings from E-filing, other IT projects or other programs.

32. The Secretariat noted that it was not possible at this stage to identify possible areas of saving. The absorption of the proposed budget for the PCT OCR Project of four million Swiss francs could not be effected without having a negative impact on other proposed activities and would entail program curtailment elsewhere.

33. The Delegation of the United States of America associated itself with the statements made by the Delegation of France and the Delegation of the United Kingdom. It noted that it would not favor the allocation of an additional four million Swiss francs for the PCT OCR Project and suggested that the necessary funds be identified elsewhere in the overall budget.

34. The Delegation of Mexico noted the change in the statements made by some delegations concerning the proposed funding of the PCT OCR Project, comparison with their earlier positions on the same issue by the same delegations during the last session of the ITPWG. It stated that its support was provided on the understanding that the budget for other IT projects would not be reduced.

35. The Delegation of Canada associated itself with the statement made on behalf of Group B and expressed support for the program and budget and the work carried out by the Secretariat. It also associated itself with statements made by Delegations of France, the United States of America and the United Kingdom about the financing of the PCT OCR Project.

36. The Delegation of France associated itself with the statement made by the Delegation of the United Kingdom on the financing of the PCT OCR Project. It indicated that it could be funded from savings made from other IT projects. In particular, the possibility of using the proposed funds for the E-filing Project could be considered, taking into account the fact that the SCIT working group had recommended using existing software.

37. The Delegation of India referred to paragraphs 127 and 128 of the Report of the ITPWG and quoted that in paragraph 127, the details for arriving at the figure of four million Swiss francs for the PCT OCR Project were provided and that in paragraph 128, it was clearly stated

that the project should be continued beyond 2001, therefore requesting the Program and Budget Committee to consider an increase in the budget of the IT program. It did not indicate that this project should be absorbed or continued within the existing IT program. This item was raised again under other matters, and the Working Group requested the Chair to ask the Program and Budget Committee for an additional amount, in view of the great importance of this project in the Patent Cooperation Treaty filing system.

38. The Delegation of France declared that the statement that had just been made did not seem to resolve this problem. The Delegation expressed its hope that a solution would be found while noting that the ITPWG did not have any financial competence. The SCIT could merely recommend that the Program and Budget Committee envisage a budgetary allocation in order to fund a specific activity. It expressed the view, however, that it was up to the Committee to make recommendations as to whether or not an increase in the budget was necessary.

39. The Delegation of the United States of America found it necessary and to the advantage of WIPO to finance these four million Swiss francs from within the initially proposed 678.4 million Swiss francs, and noted that the SCIT did not say where these funds would have to come from. The Delegation believed that the Director General had a certain discretion in reprogramming and would like to see these funds coming either from the proposed budget for IT, as initially programmed, or from elsewhere in WIPO's budget, not being in favor of an increase of the initially proposed budget by four million Swiss francs.

40. Concerning the funding of the project, the Secretariat clarified that a proposal had been made to use a portion of the proposed E-filing budget as a possibility for the redeployment of resources. However, it is noted that the assessment of the Working Group included indications that the currently proposed e-filing budget might well be below actual requirements. Therefore, it would not be possible to re-deploy resources from the E-filing budget prior to the start of the project. On the question of redeployment from other parts of the budget, it was noted that although the Delegation of the United States of America was correct in pointing out that the Director General had the authority to re-deploy savings to new program priorities within certain limits, keeping with the logic of a result-based budget process where resources are linked to detailed activities, it was not possible to identify prior to the start of the biennium where possible savings would occur. The implementation of the redeployment of program savings requires information on expenditure trends, which would permit an assessment of the situation and the formulation of detailed recommendations. The Secretariat concluded by summarizing two possible alternatives within the logic of the budget process. The first alternative would be to increase the budget for new activities adding them to the mandate of the budget document, recalling that there was broad support by the Committee for the activities initially proposed in April 2001, and it seemed premature to now make recommendations to delete some of those activities to make room for new activities. The second alternative would be to delay the launch of this project by a year to see if in that time funds were available through possible savings.

41. The Delegation of Mexico expressed its thanks for the clarification by the Secretariat. The option made to the Committee of postponing or suspending the OCR Project would permit its launch together with the Digital Library Project, once new standards had been developed for the continuation of this project. However, the Delegation believed that the project had to be supported as it recognized the importance of keeping patent information up-to-date on the web by maintaining the intellectual property library and they would not like this to be suspended. However, it considered that E-filing, WIPONET and IMPACT were far

more important projects than OCR. It therefore expressed its views that no available resources were apparent within the IT budget. As to the suggestion of finding savings in the general budget, it noted that the Secretariat had made it clear that at the moment it was not possible to foresee where savings could be made. Whilst the Delegation's preference was not favorable to suspending the project for a year, it appeared feasible as an option. The Delegation requested clarifications on the schedule of the project, in case savings could not be found on some other line items, and what would happen if the OCR could not be implemented until the next biennium, particularly in consideration of the arguments presented by the experts at the working party.

42. The Delegation of the United Kingdom associated with the comments made by the Delegation of France, stating that the ITPWG considered those projects from a technical perspective, but that it had not been mandated to make budgetary decisions. It added that the project under discussion was not a new initiative but the continuation of an on-going activity, and they were not aware of any decision to suspend this particular project. The Delegation's preference would be to agree on priorities for this Organization, should it be proved that no fundings could be made available from the IT budget, then targets elsewhere in the budget should be identified to avoid further budget growth, which already represents a growth of over 20 per cent.

43. The Delegation of Egypt expressed its reservations as to the financing of this new program from other programs, as no information was available at present as to where those resources would be available. Furthermore, cooperation for development activities was of great importance to them and they would not like to see their financing jeopardized.

44. The Delegation of Canada considered the PCT OCR Project extremely important and did not wish it to be abandoned. The Delegation requested the International Bureau to clarify the factors that might lead to the end of the project. In order to avoid similar surprises in the future, it suggested a budget be developed over a four-year cycle or a six-year cycle. Such an approach would allow Member States to have expenditures broken down over several years. The Delegation believed it difficult to identify resources that could be taken from other IT projects as experience has shown that other IT projects had suffered from inflationary pressures leading to increases in their costs. Expenditures forecasts for these projects might have been in fact under-estimated rather than over-estimated, making it difficult to find four million Swiss francs in the allocations that are being made to these projects.

45. The Delegation of the Ukraine fully supported the statement by the Delegation of Canada. It noted that work on this project had been done and some expenditures had been incurred this biennium with further expansion likely in the future. The Delegation suggested identifying resources to allow funding of this project as was done in the past, considering the importance of this project.

46. The Delegation of France, requested clarifications as to the reasons that may lead the International Bureau to stop this project once it was underway. The Delegation noted the strong support leveraged by this project from several delegations attending SCIT. As a considerable number of countries considered this project to be important, it suggested the International Bureau should share that opinion.

47. The Chairman noted that no delegation had referred to this project in April 2001 and that this was only detected by the SCIT. It recalled that only five projects were discussed in April and no comments were provided about a required project on PCT OCR.

48. The Delegation of the Netherlands associated itself with opinions expressed by the Delegations of the United Kingdom, France and the United States of America, believing that there was scope for prioritization within this budget, as four million Swiss francs was only half a per cent in the total of this budget. In particular, it suggested that the introduction of a new logo could be cancelled in order to make some savings.
49. The Delegation of Canada suggested that skipping the PCT OCR Project could have been due to an oversight without it being apparent in the preparation of the budget. If long-term implications of all projects were to be included in the Program and Budget document, there would be fewer misunderstandings or surprises.
50. The Delegation of France again supported the importance and need for the PCT OCR Project. A second point stressed was that they considered that the budget money allocated for this project should not be to the detriment of any other IT project. A third point to be highlighted was the fact that at the third session of the Program and Budget Committee, questions were deferred until the fourth session following a technical analysis by SCIT. The result was the recommendation from the ITPWG which included on the one hand the approval of the five projects already proposed, and on the other hand the proposal of an additional allocation for the PCT OCR Project, considered to be essential.
51. The Secretariat clarified the main reasons as to why the PCT OCR activity had not been included in the Program and Budget for the next biennium. In drawing-up a program of IT activities for the biennium, a number of priorities had been in line with Member States needs and concerns. During the internal process for establishing the Program and Budget, it was decided that there were insufficient funds to meet all the priorities within the IT Program. The remaining five projects were reviewed by the ITPWG and received the endorsement of the Working Group as being a correct decision in terms of the priority and budgets that had been assigned to them by the Secretariat. One of the activities that had not received funds was the Intellectual Property Digital Libraries (IPDLs) Project. As the PCT OCR activity was currently an element within the IPDL Project, it had not been identified as needing to be continued after the cessation of the project. In response to a question from the Delegation of Canada, the Secretariat expressed its confidence that the estimated budget of four million Swiss francs was sufficient for this particular activity. This was an almost wholly-outsourced activity and the budget included a number of fixed costs as well as a variable element that was dependent upon the number of pages of PCT applications that were received during the biennium. In terms of the overall IT budget, the finding of four million Swiss francs would represent a significant impact that would mean that the Secretariat could not give assurances for the successful delivery of projects; the deployment of projects like IMPACT or WIPONET, with significantly less funds than originally estimated, would be very difficult.
52. The Delegation of the United Kingdom noted the clarifications which it found useful. It acknowledged the International Bureau's position that the IT budget did not have scope to make any savings in which case they needed to be identified elsewhere.
53. The Secretariat introduced agenda item 5, as contained in document WO/PBC/4/3. During the last meeting of the Program and Budget Committee in April 2001, the Secretariat gave a progress report on the new construction project and informed the Committee that the Secretariat would work with the General Contractor to establish an accurate estimate of the budget. The General Contractor had not yet been selected, although the International Bureau had received very useful information from the architect Behnisch, Behnisch & Partner, winner

of the international architectural competition, and it was able to establish a revised cost estimate on the basis of the winning design, following the standard methodology of the cost estimation available in the Swiss construction industry. An apparent need for an additional allocation of the budget was realized, if the construction is to be implemented according to the winning design. The Secretariat is seeking guidance from the Committee with regard to the future steps to be taken. It underlined that the General Assembly actually approved project specifications as well as a maximum budgetary allocation of 82.5 million Swiss francs when the new construction was approved in September 1998, on the understanding that no additional expenditure on this project would be undertaken without prior authorization from the Budget and Premises Committee at that time, now called the Program and Budget Committee, and the General Assembly. The Secretariat considered it appropriate to bring this matter to the attention of the Committee at this stage although the final cost estimate was yet to be made. In order to facilitate the discussion of the Committee, the Secretariat held informal consultations, including the participation of Mr. Behnisch, who gave a presentation on the design of the new project. The Secretariat also provided and circulated an informal document containing additional information and a summary of the project. The Secretariat had also provided four options as a basis for discussion by this Committee to facilitate the final approval and recommendations to the General Assembly. The four options were based on current cost estimates as well as on initial budget estimates. Document WO/PBC/4/3, states that the Director General expressed his preference for option A or option B because of their cost effectiveness within a long-term strategy.

54. The Delegation of France, speaking on behalf of Group B, supported the Director General and the International Bureau on its desire to provide WIPO with the facilities it needed. The Member States of Group B wanted to ensure that the Organization was able to provide its services to Member States and other users in the most efficient and effective manner. Cost-effectiveness in the way that the resources were identified and deployed had to be ensured. The initial budget allocated to this project was 82.5 million Swiss francs. The architectural competition had resulted in a winning entry, the cost estimates for which were in the region of 180 million Swiss francs. It was now difficult to understand how the building design presented to Member States is so unrelated to the allocated budget. The Group requested clarifications as to whether the Organization would be exposed to any legal implications from this outcome. In order to be able to agree to any capital investment of this scale, the Group requested a more in-depth and objective analysis of the proposal, which needed to focus on: (i) the planning and needs assessment processes underlying the project proposal; (ii) the current and foreseeable business needs of the Organization; (iii) the impact of the major investments that have been made in IT, aimed at improving the efficiency of the Organization's operations, (iv) an assessment of the new building proposal in terms of its ability to deliver the Organization's business objectives in a cost-effective way providing the maximum possible value for money, and in this respect, an assessment of the projects proposed by entrants to the final stage of the architectural competition; (v) the management implications and business case for a conference center deserve consideration; (vi) an assessment of a range of alternative solutions with an outline of the advantages and disadvantages they presented, including options on technical, rental, and conference facilities; and (vii) an evaluation of the conduct and outcome of the architectural competition including related legal issues. In the Group's view, this exercise would be of value to Member States and to the Organization only if an independent expert conducted it. This would help to ensure and demonstrate the objectivity of the analysis. One possible mechanism would be to entrust this Committee with the task of selecting an outside assessor, such as a national audit office of a Member State. This expert could consider the legal implications, the cost of construction and other related matters. The report from this assessor would be presented to the next

session of the Program and Budget Committee for consideration. A final decision could be taken by an extraordinary session of the General Assembly based on the consideration of the Program and Budget Committee. The Group recognized that due to the Committee's timetable, this might entail a six-month delay to the project. However, an investment of this scale was of critical importance to the future of the Organization. If this decision was taken, the reserves of the Organization would be seriously depleted, the more so by taking into account WIPO's comments on likely additional costs. There would no longer be resources available to meet any new requirements for work in new policy areas, or in technical co-operation or for fee reductions. For this reason, the Group strongly believed that the decision should not be taken lightly nor without all the information required in order to be convinced that their choice was the right one. The need for prudence and caution far outweighed any perceived benefits from a decision made rapidly.

55. The Delegation of Algeria, speaking on behalf of the African Group, was in favor of the general design proposed for the construction of new premises and considered that this project should enjoy the budgetary resources required. Furthermore, the revised budget estimate for this project, taking into account comparable costs for similar building construction undertaken by other UN agencies, was very much in line. Another important point was that space could be saved, productivity improved and rental expenditure reduced. It would also be possible to avoid the inconveniences associated with the rental of office space without, however, having to increase fees or contributions of Member States.

56. The Delegation of Mexico supported option A, as it appeared in WO/PBC/4/3. The option includes a new building with 500 work places, 580 parking spaces, conference room facilities for 600 persons and complete technical facilities at a project's cost of 180 million Swiss francs. While this was the most expensive option, from the point of view of long term investment, it was the most appropriate one. While, especially since money will be saved on the rental of conference rooms and office space, it was underlined that the General Assembly of WIPO, in its meeting in 1998, approved the construction of a new building with the specifications just quoted. The Delegation's support was also contingent upon no increase in the contributions of the Member States and that there would be no negative impact on the cooperation activities of the Organization.

57. The Delegation of India, speaking on behalf of the Asian Group, noted the reasons for the new estimates. It considered helpful to have the rationale for the projected workstations, parking space requirements and conference facilities, particularly for a growing Organization like WIPO. It is noted that the original plan did not take into account any of the additional technical facilities now outlined. Furthermore, it realized that estimates proposed in 1998 were only approximate, and as more elaboration has been made on the project, the figures have become more realistic and accurate. The International Bureau had presented options A, B, C and D with explanations regarding cost estimates. In its view, a conference hall with more seating was necessary to accommodate larger meetings of Member States. Modern work facilities and technologies along with additional parking and work places were needed. Expenditures on rental of office space by WIPO would come down markedly as a result. WIPO was a growing Organization aimed at serving both Member States and the user community and must project its space requirements over an extended period. The Asian Group's preferred option would be with these requirements in mind. The Delegations of the Asian Group still had some questions regarding the increased construction costs in the various options. For example, construction costs had shown a three-fold increase. The delegation had also noted that the reserves would be brought down to a very small amount in the short run. The Asian Group inquired as to whether financing of this project would impact on

development, cooperation and technical assistance projects, suggesting that detailed clarifications be provided on the cost increases. At the same time, noting that there was no doubt regarding the need for new premises and expanded facilities, the Asian Group would stress that these consultations be held without introducing further delays to the project, which could only lead to higher costs of construction.

58. The Delegation of Bulgaria, speaking on behalf on Central European and Baltic States, expressed the view that this was not an entirely new issue, the Organization had been dealing with it for the last three years. It said that a number of decisions on the new construction had already been taken and they should be maintained. The decisions related first of all to the necessity of constructing a new building, and secondly to some parameters that had been approved by Member States at various meetings of the governing bodies. Taking these decisions at the outset, it seemed that some of the options that were presented in the document could not be considered as options because they did not contain the elements that had been approved. It considered that, options C and D departed so much from the initial idea that these were not real options. The Delegation noted that it would also seek clarifications on both the process and the substance. In particular, it sought clarification as to whether the jury and the architect were aware of the approved budget of 82.5 million Swiss francs. It also inquired as to the transparency of the whole process: the winning design was presented to the Member States last March, with no prior warning to Member States that there might be such a discrepancy between the initial and final figures. It also questioned the convenience of engaging an independent expert, as it would likely imply additional costs and further delays to the entire process. The delegation further noted that it would not be in a position to support proposals that would question the credibility of the decisions of the International Jury, the Member States and the Secretariat.

59. The Delegation of Slovakia expressed its support for option A and indicated that an independent expert would simply confirm the results of the International Jury for the architectural competition, although it noted substantial increases in the level of construction costs. On the issue of the PCT OCR project, it emphasized the need to locate required funds for the project as the IT needs of various countries, including transition economies, have increased. Investments in premises and IT infrastructure would create improvements in the efficiency of the Organization. The need for a cost-effective solution to workspace needs through an owned building as opposed to rentals was emphasized.

60. The Delegation of the Russian Federation expressed its support for the need to construct new premises in the area adjacent to existing WIPO buildings. It also referred to the issue of funding sources for the project and its impact on various activities within the Organization in financial terms. The issue of the sustainability of the financial position of the Organization and assessments of risks related to the implementation of the project were emphasized.

61. The Secretariat expressed its readiness to address issues and concerns of various Delegations and invited them to reflect on the proposal made by the Delegation of France on behalf of Group B. It also commented on the possible financial implications of involving an independent expert, which would take up to six months, as indicated by the Delegation of France. Such implications would include the cost of the expert, delays in construction time, extra expense due to the continuation of rental accommodation at a cost of some ten million Swiss francs annually and higher construction costs amounting to three to five per cent or an equivalent of four to five million Swiss francs annually. The fact that the Secretariat duly followed all procedures and steps directed and approved by the General Assembly was noted. In particular, procedures and steps for the International Architectural Competition were

described in detail in one of the previous documents submitted to the General Assembly. The cost estimate contained in the present document was based on the construction industry standards in Switzerland. The technical assessment of the winning design was thoroughly made by the International Jury whose members included prominent architects, engineers and policy-makers and who were selected in consultation with Member States. The result of the International Architectural Competition was based on an objective analysis and open deliberations according to the selection criteria agreed upon by an International Jury. The Secretariat assured that should an independent expert be involved, which would cause a delay of around six months in the construction work and have high cost implications, it would provide it with all the relevant information and support.

62. The Secretariat provided further clarifications on legal aspects of the architectural competition. It said that the composition of the jury as well as the procedures for the conduct of the architectural competition had been approved by the General Assembly and said that the rules and the program that were used for the competition had been adopted by the jury itself. It stated that the jury was composed of 15 members, the majority of which were architects, while the rest consisted of Member States' representatives. WIPO's legal counsel was the jury member belonging to the Secretariat. It noted that page 5 of the rules and program of the competition stated: "At its meeting in Geneva on September 15, 1998, the WIPO Assembly (see document WO/GA/23/7, read with documents WO/GA/23/5, WO/BC/20/3, WO/PC/10/3) decided to organize an international architectural design competition for the construction of its new building to be an extension of its existing headquarters and approved the budget and set aside a maximum package of 82.5 million Swiss Francs, based on the initial cost estimate, for the implementation of the construction project. This cost estimate will be recalculated following the architectural competition." The Secretariat noted that this was sent to all entities that had noted interest on the competition, of which there were about 800 initially. It also recalled the criteria used for the building under competition, which is stated in page 7 of that document: "projects should take due account of the organizer's objectives, namely the creation of a building complex possessing the following main features: intelligence from the technological point of view, respect for the environment, efficiency in terms of operation, use, cost, energy and technology, convivial atmosphere for all staff and visitors", adding that specific building components were also indicated in the document.

63. The Secretariat, in response to the legal question raised in paragraph 2 of Group B's statement which read as follows: "Group B asked the Secretariat to provide information as to the legal implications of the results of the competition," noted that it was the understanding of the Secretariat that the question related to whether or not WIPO had any other legal obligation to the winning candidate aside from the awarding of the first prize. It stated that the answer to that question was that WIPO's obligation to the winning candidate goes only as far as the award of the first prize and nothing more. On the proposal of an evaluation of the conduct and outcome of the architectural competition, including related legal issues, the Secretariat clarified that this matter was to be distinguished from subsequent contractual arrangements that may have been entered into after the termination of the competition. The Secretariat could think of only two qualifications that could be placed on the conduct of such an exercise. The first being that the deliberations of the jury would necessarily be confidential. It stated that if the records of the deliberations of the jury were to be made public, it would defeat the purpose of the confidential nature of jury deliberations. It is the Secretariat's understanding that such action would constitute a legal breach of confidence to Jury Members. The second qualification, according to the Secretariat, related to conducting an evaluation or an assessment of the way in which the procedures were established, the way in which the jury was composed, and the way in which the jury generally went about its business with respect



to confidentiality. The Secretariat is of the opinion that it is not possible to review the merits of the decision that was taken by the jury, as the jury is *sanctus officio*. It has performed its task and it is not legally possible to go back to the function that has already been performed and to undertake a review on the merits of the various analysis and evaluations that were made and the awards that were made by the jury as a whole. The Secretariat understood this to be based on common legal principles, i.e. distinction is made between reviewing administrative procedures under which a case had been conducted, and undertaking a review on the merits. It added that such distinction would sometimes apply to appeal procedures.

64. Speaking on behalf of Group B, the Delegation of France recalled that while the allocated budget for the project was 82.5 million Swiss francs, the first prize was awarded to a project costing 180 million Swiss francs. The Delegation requested clarifications from the Secretariat as to the legal implications of the Secretariat's proposals, which were based on four options including one retaining the initial budget which would mean that the project would not be based on the winning entry. In that regard, it inquired as to whether firms entering the competition were aware that the budget was 82.5 million Swiss francs, or that budget was simply an indicative figure to which they were not obliged to limit themselves. The Delegation was of the opinion that if the budget amount was a condition of the competition, then only those entries which respected that condition should have qualified for the competition. It noted that some candidates could argue that the reason why they did not win was because they had respected the budget for the project. The Delegation requested clarification from the Secretariat as to whether there were risks of legal action from non-winning candidates on these grounds. It also asked for some idea of the future legal and financial implications for the Organization, if the winning project was not implemented.

65. The Delegation of the Netherlands requested clarifications as to whether the Organization was legally bound to construct the building as proposed by the winning candidate or if it had the flexibility to look into other alternatives.

66. The Delegation of Algeria, speaking on behalf of the African Group, was of the view that this issue should be examined in the light of the decision made at the 23<sup>rd</sup> session of the General Assembly in 1998. It recalled that the original amount of 82.5 million Swiss francs was determined on the understanding that costs might be increased as long as the increase was approved by the General Assembly. It stressed that the estimates were only indicative due to the fact that the costs could not be clearly established before the architectural competition. The Delegation was of the opinion that with the guidelines established during the Assemblies of Member States, options C and D did not respond to the specifications determined by that Assembly. It further stated that an external audit not only would add to the costs of the project, but it would also put into question decisions of the Member States of the Organization. The Delegation followed the African Group's wishes to have further information on the way in which such an audit is usually implemented, since such a procedure is generally undertaken during or after the execution of a project and not prior to it.

67. The Delegation of China expressed its support for the proposed construction of a modern office building for WIPO, while expressing its wish that a consensus be reached after consultation. In its view, the problem before us was the considerable difference between the currently proposed budget and the budget approved in 1998. It stressed that a budget increase would have implications for the Organization, and suggested that the Secretariat reconsider the proposed options with a view to eliminating non-essential costs. This may be achieved through a further internal audit to be conducted to see whether savings could be made and the

additional costs be reduced as much as possible. The Delegation is of the opinion that the lessons and experience gained will be beneficial for the future.

68. The Delegation of Mexico said that the documents were very clear, and that the decision to construct a new office building had already been taken at the General Assembly. It noted that a listing of WIPO meetings in Geneva with more than 300 participants was contained in the annex of the document, examples of which were Meeting of the Governing Bodies of WIPO and the Unions Administered by WIPO with 302 participants, and the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions with 772 participants. The Delegation further noted that based on figures from Geneva authorities, the average cost of construction in Geneva had grown by four per cent per annum. The Delegation likewise reminded the members of the Committee that WIPO was spending ten million Swiss francs per year in rent. The Delegation said that the Government of Mexico had faced a similar situation as WIPO when it decided to purchase an office space of 42,000 square meters that INPI was renting. Based on the experience of the Mexican Government, the Delegation was of the opinion that it would be advantageous for WIPO if all office space was situated nearby and not scattered all over Geneva. While acknowledging that the initial estimate of 82.5 million Swiss francs had indeed gone up to 180 million Swiss francs for the new building, it noted that the proposed budget may increase even further depending on unforeseen events. It said that further delays in the construction of the new building might mean additional costs for the Organization. A year's delay could perhaps cost ten million Swiss francs in rental cost. This would be in addition to the four per cent inflation costs per annum experienced in Geneva. The Delegation underlined the danger of delaying a decision perhaps for a long period, raising the costs by may be more than 20 per cent of what is currently proposed. The Delegation was of the belief that questions of transparency could be addressed by establishing mechanisms whereby WIPO would report on the progress of the project every month. It was of the view that while an audit could be conducted, a decision should not be delayed any longer.

69. The Delegation of Ghana requested information on the impact of the increase on the project's budget to 180 million Swiss francs on WIPO's overall budget.

70. The Delegation of India, speaking on behalf of the Asian Group, requested information on the costs of an independent expert as proposed by Group B, and on the time frame for such an evaluation, believing that any further delays in the project would only escalate costs.

71. The Delegation of Senegal supported the statement of Algeria and recalled that the decision made in 1998 by the General Assembly of WIPO contained three essential points. First, it established the needs of 500-person office with a 600-seat conference room and it included an indicative budget of 82.5 million Swiss francs. The Delegation noted that Options C and D did not respond to the technical specifications approved by the General Assembly. The Delegation requested information on the legality of questioning the selection of the winning architect. It was suggested that the proposal for an audit or evaluation should be considered at the highest level of the Organization, while taking into account the probable costs and delays involved.

72. The Delegation of the United States of America supported the statement of Group B. The Delegation recognized the need for some flexibility in scope, but underlined that the magnitude of the changes in the project raised the question whether the results of the architectural competition were in keeping with the decision of the Assembly. For this reason, the Delegation suggested an independent evaluation of the needs of the Organization in terms

of building size, conferencing capacity, etc. The Delegation recommended deferring the decision on a building option pending the availability of a business case analysis by any independent consultant, preferably one with expertise in Geneva building projects. The evaluation should include a comparison of rental versus purchase of office spaces, based on local economic conditions.

73. The Delegation of Egypt supported the proposal of the African Group to respect decisions made by the General Assembly on premises and underlined the importance to respond to the needs for modern premises, in particular the requirements for technical cooperation. The delegation requested from the Secretariat further information on the impact of the increase in cost on WIPO's overall financial situation, so Member States could fully assess its implications for the future activities of the organization.

74. The Delegation of United Kingdom recalled that the original budget of 82.5 million Swiss francs was far exceeded. Whereas additional and unforeseen costs may occur, the magnitude of the increase at the early stage of the project justified a re-evaluation of the project concept. An external assessment would provide a certain degree of objectivity which would benefit both the Organization as well as Member States. This would provide an opportunity to re-evaluate the needs and to verify the analysis that the Secretariat had already conducted. With regard to the delays which such assessment would cause, the Delegation noted that the architect had been selected in March 2000 and the costing for this building was made available only one and a half years later. The Delegation requested information on the conduct of the architectural competition, particularly as to whether entrants to the competition had been required to submit budget costings together with proposals to demonstrate that their entry could be delivered within the budgeted ceiling.

75. The Delegation of Bulgaria raised the issue whether it was the objectives of the review to question or to reconsider decisions taken by a superior body, which was the General Assembly. If this would be the case, the Delegation expressed doubts as to whether that kind of exercise should be undertaken. The Delegation further questioned in what way the expected result of this exercise would differ from the options presented by the Secretariat. Finally, with regard to the anticipated delays associated with the assessment, the Delegation inquired about the need to hold an extraordinary session of the General Assembly in March or April 2001.

76. The Delegation of Oman supported the statement made by the Delegation of India, speaking on behalf of the Asian Group. The Delegation questioned the rationale of recruiting an external auditor and the additional financial burden associated with the anticipated project delay. The Delegation expressed concern about the threat to the credibility of the Organization should such an assessment be approved and inquired if it was not preferable that the internal audit of WIPO would be more appropriate to identify cost cutting opportunities.

77. The Delegation of Kenya supported the statement of the African Group. While agreeing with the need to expand office space, the Delegation suggested exploring the cost implications. Specifically, the Delegation recommended exploring the possibility of constructing the building step-by-step or to provide for the possibility of adapting building space for various needs. As an example, the Delegation suggested the possibility could be explored to convert meeting space into office space through movable walls. The Delegation expressed its concern that the planned 600-seat conference room would not be sufficient to accommodate all WIPO meetings and that the office space would not be sufficient to accommodate increased requirements in the near future. The Delegation expressed its

concerns with regard to possible project delays and associated cost implications due to the proposed assessment. The Delegation fully supported the premises project.

78. In reply to the questions raised by the Delegations of France and the Netherlands on the conditionality of the budget as part of the architectural competition, the Secretariat stated that candidates were required to conform to the specifications. This competition focused on the selection of the building design. Subsequent to the award of the prizes, the selected architect was contracted to do the planning work associated with the winning design, including the development of the associated budget. With regard to the question of Member States rejecting the winning design, the Secretariat noted that business dealings were to be based on good faith, and that this is expected from an international organization. Nevertheless, the Secretariat believed that it was legally possible to abandon the project and pay the architect for the work already done. With regard to the intervention of the Delegation of Senegal, the Secretariat underlined that it was not open for Member States to review the merits of the jury decision on the architectural competition. The rules of the jury provided that the jury's decision was final, and not subject to appeal.

79. The Secretariat responded to the question on the cost implication of an independent evaluation by distinguishing between direct and indirect cost of the assessment. The direct cost would depend on who would be assigned this task of the assessment. It was noted that Group B proposed an external assessor to analyze business needs and technical engineering aspects. The Secretariat recalled the independent studies undertaken by the expert in 1996 at the request of the Member States. One study was carried out by STG Coopers and Lybrand containing more than one hundred pages and a survey on the Geneva market condition and cost analysis of a number of buildings. Another study was carried out by an expert from the United Kingdom, Mr. Sugden, who was nominated by the Member States on the business needs, including, for example, the impact of the information technology on the future office space requirements. This study led to the proposed parameters of business needs, such as 500 work places, a 600-seats conference room and 580 parking places. The external analysis took six months followed by an additional time period necessary for informal consultations, preparation of the documents and convening extraordinary sessions of the General Assembly. With regard to the indirect cost associated with project delays, the Secretariat noted that annual costs of ten million Swiss francs were required for the rental of work places and several million Swiss francs as the estimated annual increase of construction cost.

80. The Secretariat underlined that the need for the building was more apparent today than at the time the project had been approved. Confidence was expressed on the correctness of the new budget presentation which had been based on the approved technical specification and standard construction costs prevailing in Geneva. Finally, the Secretariat was confident that the new construction was a good economic investment which would result in major financial benefits for WIPO. The Secretariat recognized that the initial budget was inadequate. This had been a similar experience when compared to the recent budget discussion on the renovation of the ex-WMO building. The Secretariat had addressed shortcomings in the budget process of the past with the revision of the budget for the new construction being part of the process. With regard to the funding of the budget increase, the Secretariat outlined the proposal to use the reserve funds to accommodate the additional needs. As a result, the budget increase for the new construction would not imply an increase in fees or contributions and would not have an impact on the proposed budget activities for the 2002–2003 biennium. There would, however, be less financial flexibility in the medium-term to accommodate new initiatives or to reduce fees. Once available, the new

building would be the foundation for the Organization to operate in an efficient manner. As a result, resources could be released in the years to come for new initiatives or fee reductions.

81. The Delegation of the Netherlands inquired whether there had been any specific provisions on budget limitations for the new construction included in the documentation of the architectural competition.

82. The Secretariat confirmed that there had indeed been very specific reference to the approved budget of the new construction in the Rules and Program of the International Architectural Competition. In particular, these Rules and Program read: "At its meeting in Geneva on September 15, 1998, the WIPO General Assembly (see document WO/GA/23/7 read with documents WO/GA/23/5 and WO/BC/20/3-WO/PC/10/3) decided to organize an international architectural design competition for the construction of its new building, to be an extension of the existing headquarters and approved the budget and set aside a maximum package of 82.5 million Swiss francs, based on the initial cost estimate, for the implementation of the construction project. This cost estimate will be recalculated following the architectural competition."

83. Furthermore, the Secretariat affirmed that these Rules and Program were based on the requirements for the organization of the international architectural competition described in paragraphs 40 to 49 of document WO/GA/23/5 that was approved by the General Assembly. In particular, paragraph 45 of the above document read: "The candidates selected to participate in the international architectural competition would then be sent the competition rules and program, along with detailed documentation... The candidates would also be given information on the expected cost for each of the three elements of the construction, to ensure that their proposals would be in line with financial expectations."

84. The Secretariat also pointed out the fact that the participants in the architectural competition had been primarily guided by technical specifications and that the most of participating designs and their cost implications had been in the same range. The costing of a construction project was dependent on such fundamental technical specifications as the building's total area and total volume. Since information available at the initial stage of the project preparation was limited, it was not possible to formulate exact budget estimates. The Secretariat further pointed out that what was being discussed at the moment was part of the process of attaching pre-budget information to the winning design on the clear understanding that it was not proposing a budget. It is the intention of the Secretariat that a detailed financial and budgetary proposal be submitted for consideration and approval by this Committee next year, at which time, of course, the decision could be modified.

85. The Delegation of the Netherlands said that in their view an increase of 100 million Swiss francs over the initial the budget of the new construction was not "in line with financial expectations."

86. The Delegation of the United Kingdom associated itself with the statement made by the Delegation of the Netherlands and questioned the process, which had resulted in the selection of a design associated with budget requirements significantly greater than the original estimates.

87. The Delegation of the United States of America expressed its agreement with statements made by the delegations of the Netherlands and the United Kingdom.

88. The Delegation of Egypt requested clarification about the timeframe required by the International Bureau to recover its financial flexibility in case the project were implemented taking into account the anticipated reductions in reserve levels.
89. The Secretariat clarified that it expected the reserves to be at the level of 115 million Swiss francs in the next biennium without the budget increase for the building. This amount could be in the range of 40 to 50 million Swiss francs in the next biennium with the budget increase, as the cost increase would be spread over two biennia with its major share in 2002-2003. However, a more detailed assessment of anticipated revised income, expenditure and reserve situations would be carried out in the context of the revised budget for the new construction, which would result in the update of relevant financial information and elaboration of detailed implications of the new construction project. The Secretariat also invited the Delegations to evaluate the project on its merits and to see whether it would be a good economic investment, which is able to reflect and respond to the needs and requirements of a growing organization such as WIPO.
90. The Delegation of Ukraine inquired as to whether a 600-seat conference facility would be able to meet the needs of the organization in the future given the existence of several meetings with the number of delegations exceeding 600. It also inquired about the timeframe of implementing an option A and expressed its hope that the construction work could be initiated as soon as possible.
91. The Delegation of Canada expressed its support for the positions shared by the Delegations of the Netherlands, United Kingdom and United States of America and inquired whether it would be useful to undertake a review of staffing and other requirements of the organization, under various economic scenarios, including consideration of rental spaces. This would assist in determining whether it would be consistent with the strategic objective of the organization to maintain certain elements of the new construction, in particular the conference facility.
92. The Delegation of Sudan pointed out the growing needs and requirements of the Organization and the users of its products and services and questioned whether it was appropriate to suggest that there are limits on financial expectations, given the rapid growth of the Organization and its activities.
93. The Delegation of Senegal invited Delegations to consider the project on its merits and expressed its concern about having a prior decision of the General Assembly being questioned.
94. The Secretariat indicated that the new construction was planned to be completed in 2005 and referred to document WO/PBC/4/2 for more details on the organization's office space needs, time frame and rental plans. It affirmed the need for a conference facility with the capacity of 600 delegates, as confirmed by the list of WIPO meetings with more than 300 participants provided in Annex B of document WO/PBC/4/3. In regards to office space needs, a study carried out by Mr. Sugden from the United Kingdom as an independent expert in 1996, estimated office space needs in 2006 in the range of 1040 to 1300. This forecast compared to an actual need of the organization in April 2001 for 1,340 working places. The Secretariat added that owning was considerably less expensive than renting office space in Geneva.

95. The Delegation of Mexico raised its concern over a possibility of endangering the infrastructure needs of the organization in the era of “knowledge economy” when the importance of intellectual property was no longer a subject for discussion. Concern was also raised about the kind of message that would be sent out to the Intellectual Property community and the public at large about the importance of Intellectual Property, if the project were not approved.

96. The Chairman stated that following extensive discussions with Group Coordinators with respect to the proposed decision on Agenda item 5, consensus had been reached on the decision paragraph concerning item 5, as contained in paragraph 97 below.

97. In accordance with the decision of the General Assembly in 1998 (see paragraph 30 of document WO/GA/23/7), including all its relevant decisions<sup>1</sup>, and taking into consideration the results of the international architectural competition, the Committee reviewed the issue extensively and felt that at this time it was not possible to take a decision on any of the proposed options concerning the construction of a new building for WIPO. The Committee decided to recommend to the General Assembly:

*(i) To request the Federal Audit Office of the Swiss Confederation, as the external auditor of WIPO, or other external experts to be identified by the external auditor, for those areas which the external auditor judges not to be within his competence, in consultation with the Chairperson of the Program and Budget Committee and regional coordinators, to conduct an evaluation of the project of the construction of a new building, in cooperation with the International Bureau, the architect of the winning design and other relevant organizations as appropriate;*

*(ii) To propose to include in the mandate for the evaluation, the following terms of reference:*

*(a) Updating the current and foreseeable business needs of the Organization, with special attention to the process of planning and needs assessment, to include:*

*(1) the impact of major investments, especially those in information*

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<sup>1</sup> List of documents since 1997 with regard to the previous decisions on the building project and relevant documents: WO/BC/XIV/2-WO/PC/V/2, WO/BC/XV/3-WO/PC/VI/3, WO/GA/XXI/11, WO/GA/XXI/13, WO/BC/18/3-WO/PC/8/2, WO/GA/22/1, WO/GA/22/2, WO/BC/19/2-WO/PC/9/2, WO/BC/19/3-WO/PC/9/3, WO/BC/19/4-WO/PC/9/4, WO/BC/19/5-WO/PC/9/5, WO/BC/20/3-WO/PC/10/3, WO/GA/26/8, WO/GA/26/10, WO/PBC/3/2 and WO/PBC/3/5.

*technology, aimed at improving the efficiency of the Organization,*

*(2) the management implications and business case for a Conference Center, and*

*(3) an assessment of alternative solutions for technical facilities;*

*(b) Assessing the building proposal in terms of its ability to achieve the Organization's business objectives in a cost-effective way while providing the maximum possible value for money; and*

*(c) Preparing a risk assessment, incorporating the financial implications for the Organization of this project and the possibility of further increased costs to the project;*

*(iii) To invite the external auditor and the other external experts to present their respective reports in time for consideration by Program and Budget Committee April, 2002;*

*(iv) To request that in parallel with the evaluation, by January 30, 2002, the Secretariat advise the Member States through the regional coordinators, in a detailed written report of the legal liabilities, if any, related to the project, and what further steps should be taken;*

*(v) To request the Secretariat to proceed with administrative and planning arrangements for the construction project, on the condition that these do not foreclose any option that may emerge from the evaluation.*

98. The Chairman offered the floor for comments on the PCT OCR Project (WO/PBC/4/2, Add. 1).

99. The Delegation of the Republic of Korea expressed its support to the proposal for the PCT OCR Project, as it believed it was very important and it should be continued without delay for an efficient management of PCT taking into account the rapid increase of PCT applications.

100. The Delegation of France, speaking on behalf of Group B, reiterated the Group statement on the issue (see paragraph 14) and clarified that it was not in a position to accept



the increase in the budget proposed, while suggesting that means be found to finance the project.

101. The Delegation of the United States of America said that the budget should not be raised by the amount that was requested.

102. The Delegation of the Russian Federation supported the project and requested clarification as to how it could be carried out without an increase in the general budget.

103. The Secretariat, in response to the question from the Delegation of the Russian Federation, recalled that the April 2001 session of the Committee provided broad support to the budget. Any commitment to absorb the cost of the PCT OCR Project prior to the start of the biennium would therefore be equivalent to a budget cut by an amount of four million Swiss francs. Such a decision would also set a precedent. By approving the recommendation of the ITPWG without the associated budgetary implications, program priorities as proposed by the Director General and reviewed by the Committee would be rearranged. Moreover, the logic of results-based budget methodology, which links resources, activities and results, would not be respected. While acknowledging those implications, the Secretariat also noted that the budget process had been adjusted mid-stream taking into account the financial implications of major IT projects, endorsed by the SCIT when the Committee, during the April session, requested the ITPWG to review the Information Technology program. The conclusions of the Working Group had been made available only in early September 2001. Should the SCIT be involved in future budget exercises, it was suggested to hold such meetings prior to the regular session of the Program and Budget Committee. With regard to the issue of the PCT OCR Project, the need was emphasized to provide for the possibility of increasing the regular budget by an amount of four million Swiss francs. As an exceptional procedure and in view of the late decision of the SCIT, such an increase would not necessarily have had to be approved prior to the start of the biennium. Rather, it was suggested that the project could be approved without an immediate budget increase, but on the understanding that the International Bureau would assess the budgetary situation in the second half of the first year of the 2002-2003 biennium. This assessment would be done with a view to identifying opportunities for accommodating the total amount or part of the cost of the project within the overall budget for the biennium and without impacting on the implementation of the approved program of activities for the biennium and the budget flexibility of the Director General. The result of this effort would be reported to the Program and Budget Committee in the context of the revised budget for 2002-2003. It was further understood that, should the need to accommodate a budget increase of up to four million Swiss francs, as required, appear in the cost of the project at that stage, it would be submitted to the Program and Budget Committee and the General Assembly.

104. The Delegation of Mexico suggested that the SCIT did not have a mandate to discuss budget issues. Moreover, it considered that if other permanent committees wished to be involved in the budgeting process, the work of this Committee would be more difficult. The reason for this Committee's existence was precisely to study the Organization's budget as a whole and not the budgets that each Committee might consider appropriate. Further, having expressed its concerns over possible delays in the project deadline and having supported the proposal by the Secretariat, it emphasized the fact that the budget for the implementation of the PCT OCR Project should neither be in detriment to all other approved IT projects, nor to activities in the area of cooperation for development.

105. The Delegation of Canada supported the proposal put forward by the Secretariat, hoping that other Information Technology projects would not be compromised, and encouraged the International Bureau to identify areas of possible savings in its operation. Referring to the statement made by the Delegation of Mexico on the role of the SCIT, the Delegation of Canada emphasized the importance of utilizing the technical expertise of participants in order to assess the costs of Information Technology projects which presented specific challenges.

106. The Delegation of France expressed its support for the proposal put forward by the Secretariat.

107. The Delegation of the United Kingdom associated itself with the statements made by the Delegations of Canada and France, welcoming the proposal by the Secretariat as a constructive compromise solution.

108. The Delegation of Algeria regretted that the proposal by the Secretariat had not been discussed earlier, but it deemed that the proposal would help to head the consensus on the issue being discussed.

109. The Delegation of Egypt requested that any possible opportunities for accommodating the budget of PCT OCR identified by the Secretariat be agreed among Delegations. It also associated itself with the statement of the Delegation of Mexico not to jeopardize IT or other WIPO program activities proposed for the next biennium. It requested that the exceptional nature of the financing of the project be reflected in the decision.

110. The Delegation of the Ukraine expressed its support for the proposal by the Secretariat.

111. The Delegation of the Russian Federation expressed its support for the proposal by the Secretariat.

112. The Chairman noted the support of the Committee to the proposal made by the Secretariat on the PCT OCR project, and opened the floor on the issue of geographical indications.

113. The Delegation of Canada referred to an earlier statement by the European Union concerning geographical indications. It recognized the crucial role of WIPO in developing guidelines about geographical indications and stressed the need for the International Bureau without affecting the scope or the integrity of its work, to cooperate with other international organizations dealing with the same issues so as to avoid duplication of effort and possible inefficiencies. As with other technical committees, the Delegation also stressed the importance of having the SCT define its own work program and priorities, within the general framework of the program. In summary, the Delegation believed that it was not useful either to suspend the approval of the program in question, nor to confine its work, terms of reference or time frame.

114. The Delegation of Bulgaria, speaking on behalf of the Central European and Baltic States, expressed its support for the proposal made by the members of the European Union.

115. The Delegation of the United States of America expressed its support of the comments made by the Delegation of Canada. Neither the Delegation nor the United State's authorities had received the text for study before the meeting. With regard to the issue of geographical indications, it was of the opinion that the terms of reference of sub-program 05.2 as contained

in the Program and Budget document were appropriate. It noted with appreciation the efforts made by the members of the European Union to clarify their position to this Committee. However, the Delegation added that it could not agree to any decision on the matter as it felt that the matter fell within the competence of the SCT, which worked by consensus and had not referred the matter neither to this Committee nor to the General Assembly. Although the issue of geographical indications was under consideration by the World Trade Organization, there was a need to continue discussion at WIPO and in the SCT without any time limit. Document SCT/6/3 was a starting point, not the conclusion of the discussion.

116. The Delegation of Algeria said that the African Group was not in a position to comment on the proposal by the European Union because it had not received the text of that proposal.

117. The Delegation of Mexico expressed its agreement with the statements made by the Delegations of Canada and the United States of America concerning the proposal by the European Union. It noted that each of the Standing Committees performs its own work, and that the function of the Secretariat was to ensure that these Committees should be provided with sufficient resources to carry out their mandates. It noted that sub-program 05.2 was also providing resources to other activities, such as trademarks.

118. The Secretariat acknowledged that the issue of geographical indications was very sensitive. It noted that the issue had been raised at the last session of the Program and Budget Committee, and recalled that informal consultations had been held before this meeting, and were not fruitful. It also concurred that the Program and Budget Committee was not an appropriate forum to discuss the issue, but agreed that the SCT was the right body. Finally, it suggested that the fact that a consensus could not be reached with regards to the issue of geographical indications should not block approval of the Program and Budget. The Secretariat suggested that the Committee recommend to keep the issue on geographical indications open for further consideration at the next meeting of the SCT.

119. The Delegation of France, noted with appreciation the proposal made by the Secretariat. It recalled the intervention made by the Delegation of Germany on behalf of the European Union, noting that it was premature at this stage to adopt the activities under sub-program 05.2 within the draft program and budget. However, it could agree on the proposal made by the Secretariat and leave this matter open, insofar as different kinds of references were made to the reservations expressed by delegations in the decision taken by the Committee at the current session.

120. The Delegation of Germany supported the intervention made by the Delegation of France.

121. The Delegation of Switzerland also supported the intervention made by the Delegation of France.

122. The Delegation of the United States of America, with regard to the use of the Portuguese language raised earlier in this Committee by the Delegation of Portugal, said that it referred to the position already expressed by its delegation in document WO/GA/26/10, in which its understanding on the question of the use of the Portuguese language was that in financing the provision, the Director General would first seek voluntary contributions. Should extra-budgetary funds be insufficient to cover the full costs of this provision, the

Director General would then resort to utilizing reserves from fee-based unions rather than contribution-based unions.

123. In conclusion, with regard to agenda item 4 (Revised Draft Program and Budget 2002-2003), the Program and Budget Committee decided to recommend to the Assembly of Member States:

*(i) To approve the Revised Draft Program and Budget 2002-2003 proposed in document WO/PBC/4/2;*

*(ii) To note that it was not possible for the Committee to reach a consensus on what recommendation should be made on the program of activities on geographical indications contained in sub-program 05.2, and to agree to keep the issue open for further consideration at the next session of the Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT);*

*(iii) To approve the PCT OCR Project proposed in document WO/PBC/4/2 Add.1. and to agree to the following:*

*(a) as an exceptional measure, to request the International Bureau to accommodate the budget of the PCT OCR Project within the budget resources proposed under the Revised Draft Program and Budget 2002-2003, without impacting on the implementation of approved activities and without limiting the budget flexibility of the Director General;*

*(b) should this not be possible, it is understood that the International Bureau will make proposals through this Committee for a budget increase of up to four million Swiss francs, as required, in the context of a revision to the Program and Budget 2002-2003.*

124. The Delegation of United States of America stated that it would not block consensus on the budget, but wished to state that the United States' policy for international organizations in general called for zero nominal growth, and expressed its satisfaction that the budget for contribution-financed unions remained at zero-nominal growth. In regard to the surplus fund, in general, the delegation continued to advocate the reduction of fees as the best way to reduce budget surpluses. In the future, the delegation would also like WIPO to set fees

according to the actual costs for services. The delegation congratulated WIPO on its efforts to provide a more transparent and comprehensive budget to the Committee.

[Annex follows]

LISTE FINALE DES PARTICIPANTS/  
FINAL LIST OF PARTICIPANTS

*établie par le Bureau international/  
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and of document]