

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

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## **PROGRAM AND BUDGET COMMITTEE**

### **Ninth Session**

**Geneva, January 11 to 13, 2006**

#### REPORT

*prepared by the Secretariat*

1. The ninth session of the WIPO Program and Budget Committee (PBC), hereinafter referred to as “the Committee,” was held at the headquarters of WIPO from January 11 to 13, 2006.

2. The Program and Budget Committee is composed of the following Member States: Algeria, Argentina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kenya, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Philippines, Republic of Korea, Romania, Russian Federation, Senegal, Slovakia, South Africa, Spain, Sri Lanka, Switzerland (ex officio), Thailand, Ukraine, United Kingdom, United States of America and Zambia (41). The members of the Committee which were represented at this session were the following: Algeria, Argentina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kenya, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Philippines, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Sri Lanka, Switzerland (ex officio), Thailand, Ukraine, United Kingdom and the United States of America (39). In addition, the following States members of WIPO but not members of the Committee were represented as observers: Austria, Bangladesh, Barbados, Belgium, Belarus, Benin, Congo, Côte d’Ivoire, Croatia, Cuba, Democratic Republic of the Congo, El Salvador, Greece, Haiti, Israel, Jordan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Myanmar, Namibia, Norway, Uzbekistan, Portugal, Moldova, Serbia and Montenegro, Rwanda, Slovenia, Sudan, Turkey, Viet Nam and Yemen (34). The list of participants is annexed to the present document (Annex I).

3. The session was opened by Mr. Philippe Petit, Deputy Director General, who welcomed the participants on behalf of the Director General.
4. The Committee unanimously elected Mr. Dirk H. Kranen (Germany) as Chair and Ms. Ludmila Štěrbová (Ms.) (Czech Republic) and Mr. Boualem SEDKI (Algeria) as Vice-Chairs of the Committee. Mrs. Carlotta Graffigna (WIPO Controller) acted as Secretary.

#### ADOPTION OF THE AGENDA

5. The Delegation of Switzerland, speaking on behalf of Group B stated that Group B wished to propose: (i) to add a short agenda item (General Discussion) in order to give members of the Committee the possibility to make general statements on the draft agenda items, including agenda item 4; (ii) to move agenda item 4 further down in order to give more time to reach a compromise that would satisfy all members of the Committee; and (iii) that the Controller would confirm that under agenda item 5 she would orally brief the session on the implementation of all the Joint Inspection Unit's recommendations.
6. The Chairman confirmed his understanding that Group B had requested a new agenda item (General Discussion) as agenda item 4, that draft agenda item 4 (Membership of the Audit Committee) be moved to the end of the discussions, and that the Group had also asked for clarification on agenda item 5, WIPO Financial Regulation 4.1 ("Transfers") in the light of the Recommendation of the Joint Inspection Unit (JIU). The Chairman asked the Secretariat whether all of the JIU's recommendations would be discussed under agenda item 5.
7. Referring to the intervention of the Delegation of Switzerland on behalf of Group B, the Controller confirmed that if the Committee so wished, the Secretariat was ready to brief the meeting under agenda item 5 on follow up actions on the other JIU recommendations in addition to the one explicitly mentioned in this item.
8. The Chairman verified that the proposal made by Switzerland on behalf of Group B was agreeable to the Committee and the agenda was adopted as suggested by the representative of Group B.
9. Deputy Director General Petit read the following statement on behalf of the Director General:
  10. "I would like to take the floor for a few minutes on a subject not on the agenda and prior to the beginning of this session, to report to you on a number of issues for discussion following the campaign of defamation to which the World Intellectual Property Organization, and on a personal level the Director General, have been subject for several months.
  11. "A criminal investigation has been in progress since February 2004, i.e. almost two years, as part of bankruptcy proceedings in which one of the companies which participated in the renovation of the former WMO building was involved. During the investigation, a judge summoned four WIPO staff members and a former staff member as witnesses. Their immunity was lifted so as to allow them to testify. None of those concerned was indicted.

12. “The investigation itself was directed against people who were neither WIPO staff members, nor in any way linked to WIPO. There was no formal or institutional link between the persons involved and WIPO. One of them knew certain WIPO staff members, including one of those who was summoned by the judge and whom it was alleged had received a sum of money.
13. “As soon as its attention was drawn to these facts in February 2004, an internal investigation was carried out by the Director General into this relationship and the sum of money paid. The investigation concluded that no fraud or irregularity had been committed.
14. “As an additional measure, from December 2004 onwards the Director General accelerated the work done to draw up an Internal Audit Charter. This Charter was approved by the Organization’s General Assembly at its September 2005 session.
15. “In addition, at the beginning of 2005 the Director General set up a Committee comprising senior WIPO staff members and requested an evaluation of the procedures followed by the Secretariat in relation to the project to renovate the former WMO building. The Committee submitted its report, accompanied by several recommendations designed to ensure that the practices of the WIPO Procurement Service were beyond reproach and as effective as possible. However, the Committee did not find that the rules of procedure had been infringed in any way.
16. “Finally, in order to avoid any misunderstanding the Director General requested that the WIPO Staff Regulations and Staff Rules in force be revised as regards external activities and interests. A proposal was submitted for consultation by the Member States and will be finalized this year.
17. “However, in the course of 2004-2005 a newspaper launched a press campaign referring to fraud in the Organization and reporting the remarks of people who wished to remain anonymous, which gave rise to articles in international newspapers and all sorts of rumors.
18. “Although a recent report by the Organization’s External Auditor on the construction in question made no reference to misappropriation of funds or fraud, a number of Member States requested, at the end of 2004, the intervention of the United Nations Joint Inspection Unit (JIU) with the aim of verifying these allegations. The Organization cooperated immediately. The JIU report made no reference to fraud either.
19. “Subsequently, in July 2005 five of the States wished for a new “external” investigation to be conducted. Once again, the Organization’s cooperation was complete. No means of investigation was neglected, including the most contentious, “whistleblowing”. However, in the same way as the report by the External Auditor or that by the JIU, the external investigation report was unable to confirm that the allegations of fraud were true. By contrast, the report concluded that the existence of fraud or dishonest acts had not been established.

20. “As regards the press campaign, it was characterized by the systematic timing of articles to coincide with WIPO meetings: the question is inevitably raised as to whether there was a deliberate will to harass the Organization and disrupt its work.

21. “The press campaign was conducted without distinction: in the same way as it associated WIPO systematically with the criminal case in progress, it systematically associated WIPO with the “oil for food” scandal which was, however, completely unrelated to the Organization.

22. “The press articles and the rumors have not, moreover, concealed the fact that they were based on anonymous information, and risked being manipulated by third parties who focus on their own specific interests, conduct personal quarrels or lower themselves to the extent of confusing issues in a discriminatory manner.

23. “In the same way as the Member States, the Secretariat and the Director General personally were very deeply concerned at the allegations and the atmosphere to which the allegations gave rise. Even if it is true that the crisis will only reach a final conclusion when the judicial proceedings, which have been in progress for almost two years, have been completed, today after five different investigations to which a great deal of energy and money have been devoted, and in the absence of new facts, the Secretariat believes that it is time to turn the page and to look to the future.

24. “Although certain people consider that the matter has not been clarified entirely, as always we remain at their disposal. It should, however, also be considered that no investigation can conclude definitively that something has not happened. I will explain myself: where a mistake occurs, it can be discovered and proven. Where no mistake occurs, there is nothing to discover or to prove. Conversely, slander always leaves traces.

25. “Allegations related to alleged malfunctioning in the Organization’s management. Reference was made to information technology projects. The Secretariat does not believe it has reason to be embarrassed with regard to its initiatives in this area. If that were the case, we should share the blame with the Member States, since they have been involved in managing these projects through the Standing Committee on Information Technologies (SCIT).

26. “Reference has also been made to a poor recruitment policy. Under the management of the current Director General, an expansion of the geographical distribution of the Organization’s staff has been observed. Recruitment has been conducted to a large extent in the diplomatic sphere and among intellectual property offices, in compliance with the Organization’s rules and, very frequently, at the request of the Permanent Missions in Geneva and the national offices of Member States of the various regional groups, as evidenced by the numerous letters of recommendation received from those Member States, which are kept by the Secretariat. Furthermore, we continue to receive numerous requests which we now reject so as to meet your new guidelines. The desk-by desk audit which will be conducted for the good of the Organization will tell us whether such recruitment was completely justified.

27. “In that regard, a number of statistics may be mentioned. For the period 2000-2005, 78 people were recruited by the direct recruitment procedure. 43 come from member countries of Group B, 11 from Latin America and the Caribbean, nine from

Africa, seven from Asia, six from Central Europe and the Baltic States, and two from Central Asia, the Caucasus and Eastern Europe.

28. “In the final analysis, the whole of this affair has enabled the work done in rereading the rules governing our Organization to be accelerated. At the time when the Member States have approved a restricted and balanced budget, and the Organization is limiting its expenditure, more detailed and more precise rules for our tendering procedures are being finalized. An audit committee will take up its duties. Internal supervision will be revitalized. The Member States are involved more and more closely in monitoring the Organization’s work. With the careful advice of our auditors, we are endeavoring to make the Organization a model in its field very soon.

29. “We also consider that it is now time to devote ourselves in an uncontroversial manner to the substantive issues stemming from the Organization’s mandate. You may be certain that, from our side, we will not spare any effort in helping constructive solutions to emerge from your work on the important issues included in the agenda, in order to ensure in the best manner possible the future of our Organization and the success of its mission to promote intellectual property in the world. Mr. Chairman, ladies and gentlemen, the Director General hopes that your work will be most fruitful.”

30. The Chair thanked Deputy Director General Petit for this statement, agreed that allegations and rumors had threatened the good reputation of the Organization and expressed the view that all present agreed that a forward-looking attitude was now needed. He also believed that the agenda before the Committee was driven by this forward-looking attitude. The Committee was discussing the JIU recommendations and a new mechanism to further involve Member States in the preparation and follow up of the Program and Budget. The Committee would also discuss the construction project and, perhaps most importantly, the Committee would establish an Audit Committee at this session of the Program and Budget Committee. All these actions were aimed at making the Organization a more efficient one.

#### GENERAL DISCUSSION

31. The Delegation of Switzerland, speaking on behalf of Group B, thanked WIPO staff for their hard work and diligence in preparing for this session of the PBC. Programmatic and budgetary issues were the cornerstone of every organization’s activities. Without sound financial management and strategic and transparent program planning, no organization was in a position to make the best use of its resources and to fulfil its mandate in a satisfactory and trustworthy manner. Therefore, Group B attached the greatest importance to the Committee’s work, its working modalities and the outcome of its deliberations. Group B expressed satisfaction with the PBC’s work in the course of 2005. In addition to its recommendation to adopt the 2006/07 Program and Budget, the Committee and its Working Group had presented two important recommendations to the 2005 Assemblies: the creation of the WIPO Audit Committee and the adoption of an Internal Audit Charter. Both recommendations had been adopted. The Committee had a mandate from the General Assembly which had made the Audit Committee operational through the PBC. It was therefore the duty of the PBC to fulfil this mandate by electing seven members to the Audit Committee. Group B looked forward to concluding discussions on this issue in the course of this session of the PBC. Once elected, the seven members of the Audit Committee should begin their work immediately by electing, without delay, two additional members from within and outside the UN system. Group B

expected the Secretariat to support the Audit Committee fully in its important task. The mandate of the Audit Committee was broad and comprised promoting internal control, focusing on assurance resources, monitoring audit performance and making recommendations to the PBC within its terms of reference and as it considered appropriate. The Audit Committee could count on Group B's full support in the fulfillment of this mandate. The Group looked forward to receiving regular, timely and to-the-point reports from the Audit Committee, to be discussed and recommended by the PBC for approval by the General Assembly.

32. The Delegation of Switzerland further stated that it expected the Audit Committee to oversee the new construction project as described in the relevant decision of the General Assembly. The Group would make detailed comments after the additional briefing was provided by the Secretariat under agenda item 7. Group B looked forward to receiving documentation in a timely manner in order to have time to prepare its position. The Audit Committee had been mandated to oversee the desk-to-desk review recommended by the Joint Inspection Unit. The Audit Committee should tackle this high priority task and agree on the terms of reference that would be elaborated by the Secretariat as soon as possible. Immediately thereafter, the Secretariat should present its final contract selection to the Audit Committee for agreement.

33. With respect to agenda item 5, Group B formally requested the presence of the Joint Inspection Unit Inspector responsible for the report, entitled "Review of Management and Administration in WIPO: Budget, Oversight and Related Issues", during all discussions concerning this report and its recommendations. The Group furthermore asked the Controller to brief the meeting on the status of the implementation of all recommendations made in this report, and to invite the Joint Inspection Unit Inspector in charge of this to comment on such briefing. In order to be able to do so, the Inspector's presence was necessary and required. On behalf of Group B the Delegation again expressed its thanks to the JIU for its work. The JIU had recommended that the General Assembly limit transfers between programs to five per cent of the smaller amount of the two biennial appropriations of the programs concerned. Group B agreed with the JIU's view that actual practice at WIPO—to re-deploy up to five per cent of the total budget—was too broad and could render priorities and the program's budgeting concept meaningless. Group B called for the urgent review of the Financial Regulations of WIPO and considered the mere interpretation of this regulation as only a temporary solution. Group B also believed that any changes resulting from the desk-to-desk audit should be submitted to the General Assembly for approval. Group B welcomed the decision of the September 2005 Assemblies of the Member States of WIPO to improve the involvement of Member States in the preparation and follow up of the Program and Budget. Improving the involvement of Member States meant strengthening the role and impact of the Program and Budget Committee, but without micro-management. The PBC should become the place where the Program and Budget proposal, the performance and implementation of the Program and Budget, and its final implementation and lessons learned could be discussed and actions recommended to the General Assembly in a timely and accurate manner. As had been suggested by the Secretariat in document WO/PBC/9/4, the evaluation and review of the performance of the Organization in the previous and ongoing biennia should be done far earlier. Not only the interim financial statements but also the program performance reports, program implementation overview, biennial accounts reports and financial management reports needed to be enhanced and qualitatively upgraded and improved. These documents had to become concise and operational working papers. Furthermore, tools for benchmarking and performance measurement within the results-based management framework needed to be further refined and improved. Group B concurred with

the suggestions made by the Secretariat to hold PBC meetings in off-budget years, to formulate a budget outline for the coming biennium as soon as possible, and to incorporate feedback into the draft Program and Budget to be reviewed again in the PBC. All the other suggestions mentioned in the document concerning monitoring of implementation of the approved Program and Budget were interesting and merited further examination. Furthermore, Group B attached the greatest importance to regular reports from the Audit Committee, which the PBC should receive in accordance with the relevant decision of the General Assembly. Members of Group B also looked forward to engaging in an interactive dialogue with the Internal Auditor on the occasion of his regular presentations to the PBC. The Group urged the Secretariat to schedule the presentation by the Internal Auditor of all of his reports to the PBC in the most timely way.

34. In conclusion, Group B welcomed the exchange of views concerning the further involvement of Member States in the preparation and follow up of the Program and Budget, which would take place during this PBC. Group B looked forward to a concrete and successful outcome and welcomed the suggestion of the Secretariat that consultations could be organized prior to finalization of its document, if needed. Group B expressed its thanks to the Director General, Dr. Kamil Idris, for having commissioned an external review into allegations of mismanagement and fraud at WIPO. Group B noted that the report could not conclude that some staff members of WIPO and concerned third parties had committed fraud or dishonest actions. Members of Group B remained concerned by the report's conclusion that management weaknesses were such that they constituted a factor which might lead to irregularities. The Group expected the Secretariat to take the identified risks and weaknesses of the Organization's management very seriously and to take necessary measures without delay in line with the JIU's recommendations and the recommendations of this external report. Management's transparency and accountability needed to be further improved in all these aspects. The Delegation concluded that Group B assured the Secretariat that it would continue to engage constructively in the discussions in the coming days in order to find solutions of mutual benefit for all Member States.

35. The Delegation of Nigeria, speaking on behalf of the African Group, stated that its Group had initially planned to make a general statement under the respective items on the agenda. However, pursuant to the statement read out by the Deputy Director General, it had become pertinent to give the utmost priority to this statement so that it could be given the consideration that it deserved. The statement was heartily welcomed by the Group. It wished to recall that during the last Program and Budget Committee meeting, the African Group had taken a very principled stance over this issue. In the current situation, the Group did not wish to take a position that would prejudice any party in this matter and expressed a desire to consider the matter in more detail. The Group therefore requested that they receive, as a matter of priority, copies of the statement read out by the Deputy Director General, to enable its members to study the document very carefully and deliberate on it. Furthermore, the Delegation of Nigeria was of the view that the statement of the Deputy Director General was a weighty one, full of implications and that it had changed the direction and calibration of this meeting.

36. The Delegation of Thailand, speaking on behalf of the Asian Group, stated that it regarded the WIPO Audit Committee highly and was of the opinion that it was one of the important mechanisms which would contribute to the effective management of WIPO's program and activities and the development of an international protection system that would reflect the views of their Member States. The Asian Group strongly believed that the composition of the WIPO Audit Committee should be based on geographical distribution and

professional expertise. The Asian Group had already submitted a well-qualified candidate from Jordan who had experience working in the UN System, particularly, in the field of internal auditing. The Asian Group was confident that its candidate, with his remarkable qualifications, would be able to contribute significantly to the Committee's work. The Asian Group felt that the JIU's recommendations represented a minimum benchmark to enhance the Secretariat's management of the budget. It was in the interests of all concerned to consider and implement these recommendations. However, the Asian Group also saw merit in allowing the Secretariat some flexibility along with accountability in respect of the transfer of funds to address and promptly respond to emerging needs and new issues, especially on the development dimension and technical assistance needs of developing countries. Lastly, the Asian Group expressed its appreciation of the efforts of the Secretariat in proposing suggestions to further involve Member States in the preparation and follow up of the Program and Budget. However, as decided in the General Assembly, the Asian Group was of the opinion that the Committee should focus its efforts on determining a new mechanism for the next biennium. This would enhance management efficiency and improve transparency in setting up intellectual property program activities.

37. The Chairman asked whether there were any objections to the request by Group B to invite the JIU to be present for agenda item 5.

38. The Delegation of Nigeria requested to be informed of the rationale behind the proposal to invite the JIU to the meeting.

39. The Chairman stated that he had already heard an explanation in the statement by Group B, but suggested the Delegation of Switzerland respond on behalf of Group B to the request of the Delegation of Nigeria.

40. The Delegation of Switzerland explained that Group B proposed that the JIU be invited because it thought it sensible to invite all stakeholders and that member States might have questions. The Secretariat would provide the Committee with a status report after which the delegations might wish to have an interactive debate. The presence of the authors of the report was necessary and important during such a debate to provide necessary background information, to explain to the Committee its reasoning and to participate in the debate in an interactive manner.

41. The Delegation of Nigeria questioned the JIU's stake in the PBC process and stated that, in its opinion, the JIU, which had been mandated to conduct an inquiry and provide a report, had done so, and should no longer be involved unless specifically requested.

42. The Chairman stated that it was not unusual for the JIU to be invited to be present and that they had been present at the last official meeting of the Program and Budget Committee. He then stated that it was up to the Committee to decide whether or not the JIU should be invited.

43. The Delegation of Nigeria stated that the African Group's concern was related to questions of procedure and process. It was necessary to think carefully and consider the issue in detail, in particular, the ramifications of instituting a precedent. This was indeed the reason for its request for the rationale behind the proposal to invite the JIU. The Delegation added that, in its opinion, the JIU had been invited to the eighth session of the PBC to explain the activities it had conducted in the Organization and the Report it had submitted to the Committee, as well as possibly to answer certain questions of the Member States. This had



been done satisfactorily in the course of that session of the Program and Budget Committee and that the Group sincerely believed that Member States should now be given the discretion to decide whether or not the recommendations of the JIU had been implemented by the Organization. This did not require the presence of the JIU at this meeting. The JIU had completed its work and should be involved only if necessary or if requested by the JIU.

44. The Delegation of Switzerland stated that it was in agreement with the Delegation of Nigeria and that it did not want the permanent involvement of the JIU. The proposal to invite the JIU was, in its opinion, a matter of being transparent and allowing for transparent debate between the Member States, the JIU and the Secretariat, once briefings had been received from the Secretariat and the JIU and Member States had expressed their positions. The Delegation added, on behalf of Group B, that the matter could not be concluded for its Group if transparent debate were not permitted.

45. The Chairman stated that his own understanding was that the JIU would not be a full-fledged member of the Committee but would be present to comment on the implementation or proposed implementation of its recommendations should such comments be requested by the Member States.

46. The Delegation of Nigeria reiterated its desire to stand by its stated position.

47. Following informal consultations, it was clear that the JIU should not be a standing participant at all WIPO meetings but, in the case of agenda item 5, he proposed that the JIU be invited to comment on whether the proposal of the Secretariat met their requirements. Such an expression of the JIU's opinion would be useful in view of the fact that this proposal was new and had not been reviewed by the JIU.

48. The Delegation of Nigeria, speaking on behalf of the African Group, stated that it was not averse to the JIU conducting its proper functions. The Group held the JIU in high esteem and regarded it as a very useful institution in ensuring probity and accountability in the UN system. The Delegation was mindful of the functions of the JIU and would fully support it in the discharge of its duties. Finally, the Delegation expressed its support of the proposal of the Chairman to invite the JIU to provide its views on whether the Secretariat's proposal related to Financial Regulation 4.1 met its requirements.

49. The Chairman thanked the Delegation of Nigeria for its support and proposed that, when the implementation of other JIU recommendations were discussed, the JIU not be present during the Secretariat's presentation. The Chairman therefore requested the Secretariat to invite the JIU to brief the Committee, comment on the Secretariat's proposal with respect to Financial Regulation 4.1 and to remain on standby subsequently to be able to answer questions from the Member States.

#### WIPO FINANCIAL REGULATION 4.1 ("TRANSFERS") IN LIGHT OF THE RECOMMENDATION OF THE JOINT INSPECTION UNIT (JIU) AND ORAL BRIEFING BY THE SECRETARIAT ON PROGRESS IN THE FOLLOW UP OF OTHER JIU RECOMMENDATIONS SINCE OCTOBER 2005

50. The Chair welcomed the members of the JIU, the Vice Chairman, Ms. Wynes, and Inspector Larraburre to this session.

51. In introducing this agenda item, the Secretariat referred to the report which had been submitted in February 2005 by the JIU. It recalled that Recommendation 4 concerned budgetary flexibility or the extent to which the Organization should be entitled, during budget implementation, to transfer resources from one budget heading to another and that. In the document submitted to the Assembly in September 2005 on this issue, the Secretariat had considered that since this JIU Recommendation concerned an interpretation of WIPO Financial Regulation 4.1, it would be appropriate for the Committee to analyze it in detail before submitting it for the approval of the Assemblies. This was why the agenda of the ninth session of the PBC included this question.

52. Document WO/PBC/9/3 was organized as follows: Chapter I, recalled the historical background and cited the text of the Financial Regulation 4.1 and the recommendation of the JIU; Chapter II, analyzed how this flexibility had been utilized in real terms by the Secretariat of WIPO in the last three financial biennia; Chapter III presented the possible implications of the recommendation of the JIU; Chapter IV presented the conclusions of the Secretariat.

53. The Secretariat pointed out that the current text of the WIPO Financial Regulations had been applicable since 1992 and that when program-based budgeting had been introduced at WIPO, there had been a correspondence between the Secretariat and the External Auditor to confirm the understanding that the concept of budget heading could be applied, *mutatis mutandis*, to the concept of program. The Secretariat shared the concern of the JIU to the effect that the approval of the Program and Budget is the prerogative of Member States. However, it knew from experience that during budget implementation there might be situations where a certain managerial flexibility was necessary to ensure the proper functioning of the Organization. The Secretariat had analyzed which transfers had actually been made in the last three biennia (1998-1999, 2000-2001 and 2002-2003) in terms of percentage of the total budget. As shown in document WO/PBC/9/3, all these transfers had been transparently reported to the Member States; they had been subject to the review of the External Auditor; the External Auditor had had no objections to these transfers when they had been made; the Member States had had an opportunity to discuss these documents in the Program and Budget Committee and then in the Assemblies.

54. The document also showed that each of these individual transfers was far from five per cent of the total budget and that, in fact, the overall amount of the resources which had been transferred from one program to another represented only 4.5 per cent, 3.7 per cent, and 1.1 per cent of the total funds credited in each of the 1998-1999, 2000-2001, 2002-2003 biennia, respectively. The Secretariat also gave some examples of why these transfers had been made. For instance, in the 2000-2001 biennium, transfer of resources towards Program 2 had allowed for the establishment of the Division which dealt with intellectual property and Small and Medium-Sized Enterprises and the opening of the Office of WIPO in Washington D.C. Others had been made because the audit function had been transferred out of the Office of the Controller into another sector of the Organization. Also, in the 2002-2003 biennium, resources had been transferred in order to allow for additional activities for developing countries and for additional staff support for cooperation activities in certain countries in Europe and Asia. Other transfers had been related to the set-up costs of the Arbitration and Mediation Center, or the emerging priorities of electronic commerce issues.

55. Chapter III of the document analyzed possible implications of the Recommendation of the JIU in the current WIPO financial and budgetary context. In this respect, the Secretariat's first concern was that once the desk-to-desk exercise had been concluded, there might be a need to re-adjust the post structure of the Organization. The Secretariat wished to emphasize

that JIU Recommendation 4 might limit the possibility to take stock of the conclusion of the desk-to-desk audit by transferring certain posts from one program to another. Also, the Secretariat noted that it had frozen recruitment at the beginning of 2005 and the only recruitment that would be done in 2006 would be the 20 new posts that had been agreed when the 2006/07 Program and Budget had been adopted. In this context, in order to be able to function, the Organization needed a certain internal flexibility. The Secretariat also pointed out that the Program and Budget for 2006/07 included 31 programs, some of which had a total biennial allocation below two per cent of the total budget. JIU Recommendation 4, if implemented, would make it impossible, for instance, for the Secretariat to transfer one post from one of these small programs to another. The Secretariat also recalled that the September 2005 Assembly had decided that adjustments to the 2006/07 Program and Budget should be carried out in order to take into account any program and budgetary implications resulting from on-going discussion on the WIPO Development Agenda and other issues. This was also an area where the budgetary flexibility that was implicit in WIPO's Financial Regulations could be used in order to be able to accommodate these emerging issues.

56. In conclusion, the Secretariat fully shared the concerns of the JIU in so far as it emphasized the prerogative of the Member States to determine the allocation of resources to the various programs through the budget process: However, in the current budget and financial context of WIPO, including the freeze on recruitment and the pending desk-to-desk exercise, the Secretariat believed that the Recommendation of the JIU should be moderated by a correction factor.

57. Taking the floor at the invitation of the Chair, JIU Inspector Deborah Wynes reiterated her belief that JIU Recommendation 4 should stand for the reasons it had already given. In particular, delegations had before them paragraph 5 of WO/PBC/9/3 which stipulated the reasons why in the beginning, the JIU had thought the transfer authority as had been practiced should be changed. The JIU also recalled that, to its knowledge, WIPO was the only Organization in the UN system that had this transfer authority and that the UN did not have this. The JIU understood that there were possible implications but, from what it could determine, did not think that the case of the desk-to-desk review justified the position of the Secretariat on this issue. The JIU did not think this was the correct comparison at this point because the desk-to-desk review, and the recommendations contained therein, would ultimately need to be put forward by the Program and Budget Committee for approval by the General Assembly in any event, so they would have a significant change with respect to the budget. WIPO already had unlimited flexibility to re-deploy within each program and the transfer authority that the JIU was suggesting provided even more flexibility. The JIU believed that, if there was a need for flexibility it should not be a problem if, before the fact, the Director General were to go to the Audit Committee, explain what the issue was and what the problems were, and ask for additional flexibility on an exceptional basis. The JIU would not have a problem with that and that way the Member States by definition would determine the priorities and, in this case a change of the priorities, for this Organization.

58. As to the flexibility of the transfers between programs, the External Auditor expressed his support for a certain amount of flexibility since that would guarantee sound and effective management insofar as the framework conditions were respected. He said that such transfers between programs should be made in a transparent manner so as to be able to follow up on them, verify and prepare a report on the appropriate use and sound management of such flexibility. The fact that the Organization was given flexibility would be a political decision which would depend primarily on the tasks which an organization was required to perform. He added that in the past such flexibility had always been verified and that the Auditor had

always been able to testify to the correct management of it by the Organization. In that regard, he supported the Secretariat's proposal which he found completely relevant since it would constitute a first step in limiting the flexibility.

59. Furthermore, the External Auditor considered that the Audit Committee, whose setting-up had been accepted and approved by the Member States, offered a compromise which would allow, on the one hand, the Organization's flexibility to be guaranteed and, on the other, would grant that Committee the power to consider proposals by the Secretariat concerning the need for a certain amount of flexibility. The External Auditor therefore expressed his support for the Secretariat's proposal, provided that such flexibility was transparent, that reports were produced on the correct management of resources and that such management could be verified.

60. The Chairman opened the floor for questions to the JIU. No delegations asked for the floor.

61. The Delegation of South Africa supported the statement made by the Delegation of Nigeria on behalf of the African Group, and welcomed the document prepared by the Secretariat. It underscored the decision of the General Assembly regarding the approval of the Program and Budget for the 2006/07 biennium which stated unequivocally that it should be carried in order to take into account any programmatic and budgetary implications resulting from on-going discussions on WIPO's Development Agenda and other issues. The Delegation had been pleased to hear from the Director General of WIPO that the Program and Budget for 2006/07 had built-in flexibilities to take into account programmatic and budgetary implications resulting from on-going discussions, particularly on WIPO's Development Agenda. Therefore, the Delegation objected to any attempt to limit the built-in flexibilities that were in the approved in Program and Budget for 2006/07. The Delegation welcomed and supported the recommendations to the effect that a new mechanism should be devised that would involve Member States in the discussion and follow up of the Program and Budget. Also, the Delegation was not persuaded at all that the Director General's transfer of funds from one section of the budget to another would be, as expressed by the JIU, tantamount to changing political priorities among major programs of the Organization.

62. The Delegation of France introduced the different formulae for budgetary flexibility, of which there would essentially be three, and requested certain clarifications. The Delegation explained that the main element of budgetary flexibility lay in the flexibility formulae that applied to the PCT, Madrid or Hague registration unions. Those flexibility formulae allowed the International Bureau to adapt staff numbers to the changes in filings, more or less in line with the provisions made for posts. The second aspect raised by the Delegation concerned the practice of the revised budget. It recalled how, in September 2005, the Member States had not only approved a draft program and budget for 2006-2007 but also a revised budget for 2004-2005. Thirdly, referring to the budgetary transfer formula provided for in Financial Regulation 4.1, the Delegation emphasized that, in reality, in chronological terms it could be conceived that since the revised budget had been adopted and approved by the Member States only on October 5, 2005, budgetary transfers based on the revised budget could be made only between October 6 and December 31, 2005. In that regard, the Delegation emphasized that Annexes IV, V and VI of the document submitted for the current meeting contained estimates of the value of the credit transfers solely in relation to the revised budget. Subsequently, the Delegation asked whether in reality the room for maneuver should not apply rather to the initial budget.

63. The Delegation of Ukraine welcomed the fact that the Committee was considering this very important issue. It also expressed the belief that the Director General should be allowed to continue the financial policy that the Organization had had in the past; however, the Delegation noted that this matter could be put to the Audit Committee and resolved within that body.

64. The Delegation of the Democratic Republic of Congo welcomed the clarity of the statement made by the Director General as read by the Deputy Director General. As concerned the recommendations by the JIU, the Delegation thanked the Organization warmly for the work done to improve the management of the international organizations within the United Nations system. As to the remarks made on the application of Financial Regulation 4.1, the Delegation said that the remarks would allow the Member States of WIPO to play a greater role in the preparation of and follow up to the program and budget. It emphasized nevertheless that a careful transition in the application of the recommendation made by the JIU would prove to be necessary in the coming years. With the approval of the External Auditor, the application of Financial Regulation 4.1 had given better results and had demonstrated the fairness of the flexibility of a budgetary system. During a budgetary period, the manager could assess and decide, within the scope of his powers and the available resources, on the reallocation of credits from one program to another, with the permanent aim of achieving the objectives assigned to it by the Member States. Finally, the Delegation expressed the opinion that the Secretariat should have the room for maneuver necessary in management terms and pointed out that the implementation of a budgetary program was subject to certain imponderables, which constituted the reason why in 2005 the Member States had made provision in their decision for the adjustment of the Program and Budget for 2006/07, so as to cover the WIPO Development Agenda. In conclusion, the Delegation expressed support for the proposal by the Secretariat to qualify Recommendation 4 by the JIU and appreciated fully the analysis given concerning WIPO Financial Regulation 4.1 relating to that Recommendation.

65. The Delegation of Nigeria, speaking on behalf of the African Group, thanked the Controller for giving the meeting a comprehensive briefing on this very important item. The African Group believed that the proposal put forward by the Secretariat should be taken into consideration all the more that the arguments set out were quite relevant, namely, regarding the necessity to place the JIU's recommendation in a special perspective because of its technical nature. Adjustments or corrections with respect to small programs were necessary and would help to avoid constraining the capacity of the Secretariat to make assessments in the course of on-going budgetary exercises and make re-adjustments to the structure of these programs. The African Group was of the view that it was very important that the Secretariat be given such latitude in order that all programs approved by the Member States could be effectively implemented. The Group was therefore in favor of the Secretariat's interpretation of Article 4.1 of the WIPO Financial Regulations, as stated in paragraph 25 of document WO/PBC/9/3. The Delegation also expressed the African Group's support for the recommendation that the implementation of the new proposal before the Committee should await the evaluation of the desk-to-desk review. The Committee had received professional confirmation from the External Auditor and the Delegation believed his opinion should be seriously considered.

66. The Delegation of Germany also supported the Secretariat's proposal on budgetary transfers as presented in paragraph 25 of document WO/PBC/9/3 as it was of opinion that this solution offered more flexibility. There was a risk of losing this flexibility if the JIU's proposal was followed. As stated by the Secretariat in paragraph 22 of the document, 18 of

31 programs had a budget of less than two per cent of the total budget: if the possibility of transfers between programs were limited to only five per cent of these smaller programs, that would be too much limitation. The Secretariat had explained the importance of being able to move staff from one program to another. The Delegation was also of the view that it was important that the interpretation of Financial Regulation 4.1 not be applied before the conclusion of the desk-to-desk exercise because the possibility to readjust the post structure of the Organization must be maintained. Finally, it stressed that the Secretariat's proposal guaranteed the proper functioning of all services without changing the political priorities established by the Member States.

67. The Delegation of Morocco thanked the Secretariat for its laudable efforts in preparing the document submitted for examination and endorsed the statement made by the Delegation of Nigeria, on behalf of the African Group, which called for a limit of five per cent on the transfers between programs. The Delegation also welcomed WIPO's constructive cooperation with the JIU, which had allowed the work of the inspectors responsible for the examination to be carried out smoothly and the required interviews granted to them. In relation to the recommendation under consideration, the Delegation asked whether in fact all the items of information providing an understanding of the possible merits and shortcomings of the application of the recommendation, which aimed to limit the flexibility without damaging the effectiveness of WIPO's management, were available. Following the statement by the External Auditor, the Delegation said that for the time being it noted, in the same way as the stance taken by the African Group coordinator, the importance of the approach proposed by the Secretariat in paragraph 25.

68. The Delegation of the United Kingdom had listened with interest to the JIU's comments on the Secretariat's proposals and expressed the view that the JIU had seen nothing exceptional within WIPO that seemed to require an additional level of flexibility above that of other United Nations organizations. The Delegation also noted the references made earlier to WIPO's Development Agenda and recalled the decision of the September 2005 General Assemblies that adjustments to the 2006/07 Program and Budget should be carried out in order to take account of any programmatic and budgetary implications resulting from on-going discussions on the Development Agenda and other issues. The Delegation believed that the budgetary implications of both the desk-to-desk review and the Development Agenda should therefore be made with prior consultations of Member States rather than being decided within WIPO itself.

69. The Delegation of Japan stated that international organizations influenced many people all over the world and that it was therefore important for such organizations to establish credibility in their operations. In the case of WIPO, credibility was even more important than in other international organizations because WIPO's income came mainly from the fees of the international registration systems paid for by the systems' users. Such credibility was essential to ensure the transparency of the Program and Budget and the efficient and effective operation of all programs. The Delegation therefore welcomed the PBC's discussions. As to Financial Regulation 4.1, the Delegations expressed the view that, under the current budget cycle, the possible amount which may be transferred among the programs was too high because WIPO's total budget was increasing. The Delegation expressed the belief that the amount or size of the budget for each program adopted should be respected as much as possible and that it therefore supported the basic concept of the proposal to amend Financial Regulation 4.1.

70. The Delegation of Japan then made two comments on the proposal made in paragraph 25 of the document: Firstly, this proposal provided a limitation of five per cent of the amount corresponding to the biennial appropriation of the receiving program or to one per cent of the total budget, whichever was higher. The Delegation was of the view that under this proposed regulation one per cent of the total budget would become the virtual or substantial limitation of almost all the programs and that the variation from the budget for each program was still too high for many programs. The Delegation feared that the proposed amendment of the regulation did not represent any substantial change to the Financial Regulation and it considered that the phrase “one per cent of the total budget” should be deleted from the proposal. Secondly, the proposal referred to five per cent of the amount corresponding to the biennial appropriation of the receiving program, and the Delegation considered that the variation of the amount of the providing program should also be taken into consideration. Namely, even if the variation of the amount of the budget of each receiving program was less than five per cent, theoretically the variation of the amount of the budget of the providing programs could be more than five per cent. The Delegation was therefore of the view that the limitation should be the one recommended by the JIU or, more simply, that the limitation of each program should be five per cent of the amount of the biennial appropriation of the program concerned, irrespective of the receiving or providing programs. The Delegation had noted the opinions of other Delegations that, if the transfer from one program to another program was low, operation of the program would lack flexibility, as described in paragraphs 20 to 22 of the document. However, in other international organizations the financial regulations did not use the total amount of the budget as the baseline when the transfer of the budget was considered. WIPO should therefore do as other international organizations did and introduce such a regulation. If it was truly necessary to transfer an amount over the limitation described in the regulation, the Delegation considered that additional approval, via the PBC to the General Assembly, might be a condition for such additional transfers. Finally, with regard to the timing of the application of the new regulation, the Delegation believed that the new regulation should be applied as early as possible but the Delegation could be flexible on this point and would like to listen carefully to others’ opinions.

71. The Delegation of the United States of America supported and urged implementation of the JIU’s recommendation regarding budgetary transfers. It had listened to the arguments regarding the need for flexibility that might arise from the desk-to-desk review or discussions on WIPO’s Development Agenda, but it believed that any such budgetary adjustments ought to be made with prior consultations of Member States. The Delegation supported the proposal made earlier by Group B and reiterated the position that a review of WIPO’s Financial Regulations with a view to removing the ambiguity of the language that requires interpretation was necessary.

72. The Delegation of Pakistan had listened to the different views expressed with regard to the flexibility available to the Organization with regard to the budget and was of the opinion that there was a need for the Committee to be pragmatic in its approach in dealing with this issue. From the information contained in document WO/PBC/9/3, the Delegation had seen that there was sufficient information for the PBC to be sure that the existing flexibility had in no way been misused or utilized in a manner which was not consistent with the objectives or purpose of the Organization. It was therefore of the opinion that this flexibility was an operational and administrative requirement. The Delegation had in fact seen a useful demonstration of this flexibility in the decision-making process leading to the approval of the 2006/07 Program and Budget in 2005, even for an organization like WIPO, which was going through an important phase with the discussions on important items like the Development

Agenda. The Delegation also observed that the number of meetings with regard to the Development Agenda had had to be enhanced and increased and therefore expressed the view that, while the Committee was discussing issues which affected the Member States and, by extension, the larger humanity, this kind of flexibility needed to remain available to the International Bureau in order that the Organization could continue to adjust its programs and operational requirements in terms of finances. Until the Delegation saw something which was not in consonance with what the Member States wanted the Organization to do, it was of the view that this flexibility should remain.

73. On the issue of the JIU's presence at the session, which had been resolved earlier in the session, the Delegation of Pakistan made the point that—while it appreciated that, in the spirit of allowing the meeting to advance, it had been decided to allow the Joint Inspection Unit inspectors to be present—its understanding was that the JIU had made its recommendations sufficiently clear in the Report and observed that, after having resolved the issue of whether or not they should be present, when the inspectors were actually present, the Committee had really not had much utility of that presence. It was most important that a procedural precedent for the presence of the JIU in this Committee or in other WIPO committees should not be set because, as was evident by the very nature of the title of the JIU Report, the inspectors' participation was of a recommendatory nature. The JIU had made its recommendations and it was now for the PBC, in the true spirit of a members-driven process, to consider that recommendation and reach a decision relying on its own collective wisdom. The Delegation expressed its reservation as to establishing any precedent for a stand-by arrangement for the JIU's presence at any participation in the PBC or the Organization's other committees.

74. In reply to the questions raised from the floor, the Secretariat pointed out that in looking at the standards of other UN Agencies in respect of budgetary flexibility among programs it was important to bear in mind that WIPO's Program and Budget for the 2006/07 biennium included 31 Programs, 18 of which had a biennial allocation lower than two per cent of the total budget. For instance, Program 10 (Intellectual Property Rights Enforcement) had a total biennial allocation of 2.9 million Swiss francs, the five per cent of which was something like 150,000 Swiss francs and Program 24 (Internal Oversight) had a total biennial allocation of 1.7 million Swiss francs, five per cent of which was something close to 90,000 Swiss francs. The practical consequence of JIU Recommendation 4 would therefore be that, in order to be able to transfer even one post from one of these two programs to the other, the International Bureau would be required to convene a session of the Program and Budget Committee. This did not appear very practical. The Secretariat also believed that similar practices existed in other UN agencies and cited for the record that the World Meteorological Organization (WMO) had budgetary flexibility between programs of up to three per cent of the total budget. The Secretariat also confirmed that, as mentioned by the Delegation of France, WIPO budgetary flexibility was based on various mechanisms (the flexibility clause that Member States had established in respect of the operations of the PCT, Madrid and Hague systems, the revised budget mechanism, which had been in force since the year 2000, and Financial Regulation 4.1). It believed that these various mechanisms were complimentary. It also clarified that document WO/PBC/9/3 referred to the revised budget, and not to the originally approved budget, because the Financial Management Report of the corresponding periods had taken the revised budget as the basis against which to compare actual expenditure. However, if Member States so wished, it would in future be possible to compare actual expenditure with the originally approved budget. Finally, the Secretariat referred to the comments made by the External Auditor on the question of flexibility, and confirmed that it was committed to continue to provide to the External Auditor the financial information he required in a transparent manner in order that he could verify that the Secretariat had made use of the



flexibility provisions in a way which was consistent with the priorities set by the Member States.

75. Regarding a possible revision of the Financial Regulations, the Secretariat stated that it was ready to move forward into this area, if so requested by the Member States. In its view the possible involvement of the Audit Committee in these issues was equally a matter for the Member States to decide.

76. The Chair asked whether the Secretariat considered that there might be a problem of mandate because there was nothing in the Audit Committee's mandate with regard to budgetary issues. He further noted that the Audit Committee was not intended to be a small Program and Budget Committee since the members of the Audit Committee would be completely independent and suggested this might require further reflection.

77. Having listened to the contributions, the Chair did not think there was a common view in the Committee on the proposal by the Secretariat and made a compromise proposal, as follows: "Transfers from one program to another program shall be limited, for each given biennial period, to five per cent of the amount corresponding to the biennial appropriation of the receiving program or to 0.5 per cent of the total budget, whichever is higher, on the understanding, however, that this interpretation of Financial Regulation 4.1 would not be applied before the conclusion of the current biennium after the desk-to-desk exercise and also, that it would not prejudice the decision of the 2005 Assemblies on budget adjustments."

78. The Chair commented that his proposal was based on his analysis of the documents and that in past years transfers of 0.5 per cent had only been used in very exceptional cases.

79. The Delegation of France said that the proposed solution would represent an acceptable compromise, given that it would be necessary, in addition to the interpretation made of the Financial Regulations, to revise the Regulations. The Delegation considered that the interpretation could only be a temporary one and reiterated its wish for the Financial Regulations to be revised by the Member States as quickly as possible. The Delegation also said that it was important to stress the fact that the flexibility calculation should apply to the initial budget and, in that regard, thanked the Secretariat for the useful information that had been provided and which had clarified the debate. The Delegation also expressed its support for the proposal concerning the deadline for application of the interpretation and emphasized the importance it attached to the recommendations, which might be made following the desk-by-desk review of employment, being submitted to the Member States, in particular those that would have financial implications.

80. The Delegation of the Russian Federation expressed its appreciation to the JIU Inspectors and the External Auditor for the opinion each had expressed to the Committee. In the Delegation's view, the Secretariat required room for maneuvering with regard to budget implementation. However, this should be within certain limits. Therefore the Delegation supported the application of a reasonable restriction in that respect. It believed that there was a need to clarify WIPO's Financial Regulations for that useful purpose, as had already been noted. This should be done in order to obtain greater transparency within the budget process. The Delegation also wished to see the role of Member States in the process of preparing the budget enhanced and the monitoring and control over budget implementation to be improved. In that connection, when it came to the need to transfer substantial amounts from one program to another, it felt that there was clearly a need for further clarification of a number of matters, and that would mean that such matters should be brought to the attention

of Members States for consideration. On that point, the Delegation agreed with the opinion expressed by the inspectors to the effect that if the outcome of the desk -to-desk review involved some kind of budgetary adjustment or correction, then Member States should receive information from the Secretariat and be able to express their views on such recommendations.

81. Regarding paragraph 25 of document WO/PBC/9/3, the Delegation of the Russian Federation was ready to agree with the recommendation, as proposed in the document, as a temporary measure particularly in the way it had been amended by the Chair. It was of the view that these resources should be sufficient to allow the Organization to resolve operational issues that might arise and that anything beyond that should first be submitted to the Member States for their opinion. The Delegation also agreed with the proposal that had been made to the effect that there should be a temporary application of this new formulation but that this interpretation of Financial Regulation 4.1 should be seen as a provisional measure. On that basis, it believed that the proposal put forward by the Chair could enjoy consensus.

82. The Delegation of the United Kingdom apologized if it had been unclear in its earlier intervention with regard to its position. It supported the recommendations of the Joint Inspection Unit and did not wish to adopt the Secretariat's proposal. It wished to state this very explicitly so there would be no misunderstandings. The Delegation welcomed the proposal of the Chair to try to reach consensus on this very important subject and agreed that it needed to be given due consideration. In the light of that, it asked for a little more time for more careful consideration. The Delegation was not yet in a position to agree to the new proposal. This was not, however, to suggest by any means that it would wish to revert to it at a future meeting, but rather to revert to it later this session and, hopefully, reach agreement.

83. The Delegation of the United States of America wished to add its voice to that of the United Kingdom. It was not in a position at this time to agree to Chair's proposal. Although it appreciated the Chair's proposal, it needed more time to consult with its capital. The Delegation also said that it was very favorable to the French Delegation for its proposal to include some kind of language asking for review of the Financial Regulations.

84. The Delegation of Japan said that it appreciated the Chair's effort to reach consensus but at this stage it would require a little more time to consult with its capital.

85. Following informal consultations, the Chair opened the floor on his compromise proposal and stated that he would withdraw it if there was no consensus. The Chair also reminded that, in the absence of a common understanding of the interpretation of Financial Regulation 4.1, it would remain as it stood currently.

86. The Delegation of Nigeria, speaking of the behalf of the African Group, expressed the wish to contribute what it considered to be very important comments on the issue under the discussion. It recalled that the African Group had earlier made a very important compromise in regard to the appearance of the JIU at the session. The Group initially had not been disposed to the idea, but in the spirit of compromise and in order to move this entire process towards a satisfactory conclusion, it had agreed that the JIU could appear, at least to listen to the briefing of the Secretariat on this particular item and perhaps to answer questions coming from Member States. Since then, it appeared that there had been no need for the JIU to be present since no delegation had asked the inspectors any questions and their presence had not thrown any further light on the issue. Having said that, the Group wished to note that the Secretariat had made a very cogent submission in giving its reasons for maintaining flexibility, as it had so professionally stated in paragraph 25 of the document under review. In

view of the Secretariat's very lucid and clear presentation, the African Group was of the view that paragraph 25 should remain as it had been initially presented by the Secretariat to the Delegations.

87. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Chair for his submission of an interesting and wise proposal. The Delegation said that there were different positions within its Group. Nevertheless, after having held consultations, the Delegation stated that, in a spirit of compromise, and even extreme compromise, paragraph 25 as revised by the Chair could be accepted if, but only if, a reference was added to that paragraph on the need to discuss at the General Assemblies the issue of the comprehensive and urgent revision of the Financial Rules and Regulations. If these elements were included, the Group would be in a position to accept the compromise proposal.

88. The Delegation of the Czech Republic, speaking on behalf of the Central European and Baltic States, expressed its support for the compromise proposal made by the Chair on the condition that it was temporary and that revision of this interpretation would be made.

89. The Delegation of Thailand, speaking on behalf of the Asian Group, extended its support to the recommendation of the Secretariat.

90. The Delegation of Mexico, on behalf of GRULAC, said that the national delegations of which the Group consisted would, where desired, make their statements individually and from the point of view of their national interest. The Delegation added that GRULAC as such did not have a position but that, from the Delegation of Mexico's point of view, it wished to support the Chairman's proposal only if some phrase were added to what had already been said by the Chairman, to the effect that such transfers should enhance the programs devoted to cooperation for development, i.e. the programs receiving the transfers were those devoted to cooperation or to development.

91. The Delegation of China expressed its support for the Chair's proposal.

92. The Delegation of Kyrgyzstan, speaking on behalf of the countries of Central Asia, the Caucasus and Eastern Europe, indicated that it would express its position on the issue at the beginning of the next session, after consultation with all members of the Group.

93. The Chair withdrew his proposal since it had not obtained consensus.

94. The Delegation of Switzerland reiterated that it had found the Chair's time-bound proposal interesting and stated that after consultations with the other members of Group B, it was in a position to make a proposal which took different concerns into consideration and had been elaborated in a spirit of compromise. The proposal would take on board the language proposed by the Chair, which meant the Secretariat's proposal plus the addition of the words, "after conclusion of the current biennium after the desk-to-desk exercise". The Delegation was ready to show flexibility on the one per cent question. On the other hand, it proposed to add at the end of the sentence the words "a draft of a comprehensive revision of the Financial Rules and Regulations will be discussed at the next General Assembly".

95. By way of clarification, the Secretariat said that it did not wish to be in a position where it would be obliged to make commitments that it could not respect. The deadline fixed for the implementation of the recommendation relating to the preparation of the revised Financial Regulations appeared to be very short, insofar as such an exercise would clearly require

consultations to be held with the Member States, either through the Audit Committee or through the Program and Budget Committee, or even both, and that it would be difficult to launch such a process before the 2006 Assemblies. In that connection, the Secretariat expressed the hope that the Member States would be realistic when considering the deadlines required for the exercise and that the Program and Budget Committee meeting that would be held in the spring of 2007 would represent a realistic deadline for the consideration of a first draft document, with a view to its possible submission to the Assemblies in September 2007.

96. The Chair asked the Delegation of Switzerland whether it would like to change its proposal on behalf of Group B in the light of the comments made by the Secretariat.

97. The Delegation of Switzerland stated that the explanations by the Secretariat seemed reasonable and it would consider them. However, it preferred first to see how the meeting reacted to its proposal.

98. The Delegation of Nigeria stated that it had intended to make a statement on this issue, but that the Secretariat's intervention had already put issues in a clearer perspective. It therefore endorsed the Secretariat's position on this matter.

99. The Delegation of Czech Republic confirmed that the Group of Central European and Baltic States could agree with Group B's proposal.

100. The Delegation of Mexico said that it had no objection, although it merely wished to emphasize the proposal it had made the previous day, i.e. that a paragraph be added as follows: "In any case, it shall be ensured that transfers of resources are of benefit to cooperation and development programs".

101. In response to a question of the Chair, the Delegation of Switzerland confirmed that in a spirit of compromise, Group B could agree to replace the words "General Assembly" with the words "Program and Budget Committee" in the last line of its proposed decision text.

*102. The Program and Budget Committee decided to recommend to the General Assembly that:*

*(i) transfers from one program to another program shall be limited, for each given biennial period, to five per cent of the amount corresponding to the biennial appropriation of the receiving program or to one per cent of the total budget, whichever is higher, on the understanding, however, that this interpretation of Financial Regulation 4.1 would not be applied before the conclusion of the current biennium after the desk-to-desk exercise and, also, that it would not prejudice the decision of the 2005 Assemblies on budget adjustments; and that*

*(ii) a draft comprehensive revision of the WIPO Financial Rules and Regulations shall*

*be submitted to the April 2007 session of the Program and Budget Committee for consideration.*

103. Following the adoption of the decision, the Secretariat provided a progress report on the implementation of the other recommendations of the JIU that had not already been implemented before the September 2005 Assemblies.

104. The Controller addressed JIU Recommendations 1, 2, 7, 11 and 12, as follows.

105. JIU Recommendation 1 concerned hiring independent expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the Organization. Member States had decided that one of the terms of reference of the Audit Committee would be to oversee the desk-to-desk exercise. For this reason, the Secretariat could not proceed with the exercise until it had received inputs from the Audit Committee. The Office of the Controller and the Department of Human Resources Management had already begun preparing the data necessary to conduct this exercise. Following drafting of specifications, a tender would be launched to select the external company which would undertake the exercise.

106. JIU Recommendation 2 concerned the level of the budget for the 2006/07 biennium. This had already been decided in the Assembly. In this context, the JIU had also recommended that, in the 2004/05 biennium, the International Bureau should avoid drawing on its reserves and creating deficit spending. The Secretariat was pleased to report that it had succeeded, through cost saving measures, to avoid any deficit spending in the 2004/05 biennium. The Finance Department was in the process of closing the accounts and actual expenditures figures for 2004/05 would soon be available.

107. JIU Recommendation 7 concerned the extra remuneration of the Director General of WIPO for his duties in relation to UPOV. The Secretariat had pointed out that this recommendation could not be followed up by the Assembly of WIPO because the Assembly of WIPO was not competent on the question of remuneration of the Secretary General of UPOV, and has therefore stated that it would refer it to the UPOV Council. This had now been done and the session of the UPOV Council held in November 2005 had taken note of it.

108. JIU Recommendations 11 and 12 concerned the oversight mechanisms of WIPO. An Internal Audit Charter had now been approved by the Assembly, following which the Secretariat had also utilized a vacant D1 post, and published a vacancy announcement, for the post of Internal Auditor, in line with the provisions of the Charter. At the same time, there were other positions under recruitment, exceptionally, to reinforce the Oversight Division. Work was also being done to develop a number of procedures and policies for the oversight function in line with the provisions of the Charter.

109. Deputy Director General Gurry addressed, in reverse order, the three JIU recommendations that concerned the PCT. JIU Recommendation 6 was that WIPO should establish an online mechanism for fee payment in the context of the PCT. The Secretariat was pleased to report that this recommendation was in the process of being implemented. It had required that the Secretariat build two interfaces. The first concerned online fee payment in respect of paper-based applications—and that had been completed and was expected to become operational very shortly. The second one was an interface with respect to electronically-filed PCT applications using the PCT SAFE and that interface was in the

process of being constructed. The Secretariat expected this recommendation to be fully implemented in the course of 2006, and added two brief comments to help put it in context. Many of WIPO's applicants had deposit accounts at WIPO. They made payments into those deposit accounts and drew on them with respect to particular applications so, in effect, those who would be served by this new mechanism was actually a reasonably small number of applicants. The second comment was that in any case most of the time the fees within the PCT System were paid to national Receiving Offices.

110. It was recalled that there were two parts to JIU Recommendation 5: that WIPO should consider specifying PCT fees and making them payable in Swiss francs as opposed to national currencies and that WIPO should contemplate the introduction of the direct payment, to WIPO, of the WIPO fee with respect to a PCT application that is filed in a national receiving Office. The Secretariat raised a number of questions about this particular recommendation in the paper that had been submitted to the September 2005 Assemblies. It had been suggested that it was not entirely clear that these two recommendations would work in the favor of PCT applicants and it had therefore been suggested that the Secretariat prepare a paper which fully explored all of the implications of these recommendations to the Assemblies in 2006. That had been acceptable to the Assemblies in September and the Secretariat hoped that it remained acceptable to the PBC now. That paper was in the course of preparation and would be submitted to the Assembly in September 2006.

111. JIU Recommendation 3, that WIPO should establish on an urgent basis a methodology for determining the unit cost of processing a PCT application, was an item on which the Secretariat was continuing to work. It was thought that the only slight nuance of difference that the Secretariat had with the JIU recommendation was the urgency of so doing. It was certainly urgent that the Secretariat establish this methodology, but it was rather difficult to freeze in time PCT operations in order to determine unit cost because WIPO was in the process of deploying a full electronic dossier for the full electronic processing within the PCT of PCT applications. As stated in the update that the Secretariat had given in September 2005, the full electronic dossier had been deployed completely across three of 13 processing teams. In the course of 2006, it would be fully deployed across the remaining ten processing teams but it was still only partially deployed across those at the moment. The Secretariat had given figures to this effect in September and would be happy to repeat them if the meeting so wished. The Secretariat had found that there had been considerable productivity improvements as a result of this, although the full benefit of those productivity improvements would not be apparent until the electronic dossier had been fully deployed across the processing teams and the period of training and formation had come to conclusion. So the status was that the Secretariat was working on this methodology, which was part of seven studies that WIPO was preparing with respect to the PCT fee structure. Those studies covered the evolution of the PCT fee structure, the structure of the page fee, which was affected by the electronic environment, the structure of the reductions that are currently being given for electronic filing, the exchange rate mechanism, the price elasticity of demand, the total cost of patenting, and the unit cost of processing a PCT application. The Secretariat hoped to be able to present, by June 2006, a synthesis of how it saw the picture of the structure of PCT fees as a consequence of these studies and to submit that, first for informal consultations concerning the structure of the fee with a view, ultimately, for any concrete results of these studies to be reflected with respect to the planning process for the next biennium which the Controller would normally begin in about November of 2006.

112. The Director of the Human Resources Management Department (HRMD) gave an update on implementation of JIU Recommendation 9. The Organization had reached peak

staffing in June 2003 with 1,417 staff, including temporary employees. Of these, 942 were staff members and 475 were temporary employees. At the end of 2005, the total number of persons working in WIPO was 1,260, representing a reduction, since June 2003, of 11 per cent and a reduction in headcount of about 156. The total number of fixed term staff at the end of 2005 was below the level that the Organization had had in 2002. Furthermore, the total number of temporary employees was even below the 1999 level. This important reduction of the work force had been achieved mainly through internal re-deployment to sectors in a growth phase, particularly the registration systems. During the same period, the total number of applications received by the PCT had increased from 76,000 in 1999 to more than 132,000 in 2005, representing a 73 per cent increase. In the case of Madrid, the number of applications had grown from a little over 22,000 in 1999 to more than 33,000 in 2005, representing an increase of 50 per cent. The Organization had thus achieved an important reduction in headcount while coping with significant increases in workload in the registration areas. In relation to JIU Recommendation 9b, which stated that the practice of transfers with posts should be discontinued, the Director of Human Resources clarified that this policy would be implemented pending the results and recommendations of the global assessment of the Organization's structure and human resources to be undertaken as part of the desk-to-desk assessment. In relation to personal promotions, no personal promotions had been granted since the beginning of 2005 and new guidelines for promotions were being drafted in line with the best practices of the UN. The Organization was undertaking work to develop a comprehensive human resources strategy, including a global assessment of the structure and an assessment of the workload and required resources. Furthermore, the Organization was working on the identification of duplication of tasks and the identification of new options to absorb growth, in particular in the registration systems. An evaluation of outsourcing options was being undertaken, in particular, with respect to translation services.

113. Another important element of the new strategy would be the policy of attracting and retaining highly qualified staff through a stricter selection process with full competition and through a policy of redeployment. The Organization was also in the process of identifying new ways to absorb the growth within the registration system through innovation and tighter collaboration with national offices. The Organization was striving to achieve a better geographical representation of human resources and an improved gender balance. Efforts were underway to design a new performance management process and to initiate a pilot project within the next two or three months, the overall goal being one of introducing a stronger performance driven culture within the Organization. In undertaking these steps to develop a comprehensive human resource management strategy and introduce a stronger performance management process and system, the Organization would, in line with the recommendations of the JIU, undertake work to identify and incorporate best practices of the UN system. This would include practices and policies of other organizations with respect to reclassification, promotion, social security coverage, medical care and due process. The Organization intended to establish a grievance panel and a rebuttal panel which would give more transparency to due process in cases of conflicts between staff and management. Additionally, consideration was being given to the need for intensive training of supervisory staff in management skills. In undertaking the various measures outlined, the Organization had, in the last three months, made progress in establishing a foundation of what would be the new human resource strategy. Efforts were underway to identify the best way to implement the recommendations of the JIU report and to prepare for the desk-to-desk assessment. Lastly, the Director of HRMD emphasized the important need to consider the desk-to-desk assessment as an opportunity to align the Organization's resources to its future needs by considering the skills and competencies required to support its key strategies and longer term

plans. A conscious effort would therefore need to be made to avoid taking a snap-shot view of the Organization as it stood today.

114. In response to clarification requested by the Delegation of the United States of America on the breakdown of fixed term and temporary staff in 2005, the Director of HRMD elucidated that it totaled 1,260 of which 901 were fixed and 359 were temporary employees.

115. The Delegation of Romania stated that the report of the Secretariat had been very useful and requested that it be presented in due course in the form of an information paper or a progress report on the implementation of the recommendations of the JIU. The Delegation further stated that the JIU recommendations fell into two categories, namely, technically related and management-policy related, the latter including human resource related policies. The Delegation observed that while the technical recommendations had been largely implemented, basic recommendations related to human resource management policy had not yet been implemented. The Delegation agreed that the desk-to-desk assessment was key to facilitating the implementation of these recommendations and therefore urged the Committee to proceed rapidly to the appointment of members of the Audit Committee, failing which several key decisions would remain pending. Lastly, the Delegation stated that the information that the Secretariat had provided to the Committee concerning the human resources strategy was very useful. It added that establishing more detailed guidelines and targets would be in order. The Delegation expressed the need for the Organization to be able to strike the right balance between competence and other criteria—such as gender and geographical representation—with a view to developing a long-term solution related to temporary staff who had been continued over a long period of time.

116. The Delegation of the United Kingdom expressed its support for the request already made for a progress report on the implementation of the JIU recommendations. The Delegation requested clarification from the Controller on whether the draft terms of reference for the desk-to-desk assessment for the external organization had been prepared. The Delegation also requested clarification from the Controller on what conclusion had been reached by the UPOV Council with respect to JIU Recommendation 7. Lastly, the Delegation requested a clarification from Deputy Director General Gurry on the timing of presenting a proposal related to JIU Recommendation 5 to the General Assemblies.

117. The Delegation of Nigeria, speaking on its own behalf, requested clarification from the Director of HRMD on whether it was usual procedure to freeze promotions of those who were entitled to be promoted. It then wished to know whether a reversal of the decision to freeze promotions in 2005 would be possible for those staff members who were indeed entitled to be promoted in that year. The Delegation further stated that with respect to geographical balance it would like to be provided with a document outlining the current situation and the Organization's future policy in this regard. Furthermore, the Delegation stated that, bearing in mind the need for skilled and competent staff, it should not be presumed that certain regions would be unable to produce competent and qualified candidates and thus the Organization should make every effort to widen the search for candidates for all types of positions.

118. The Delegation of the Democratic Republic of Congo expressed its concern at the statement made by the United Kingdom relating to Recommendation 1 and requested clarification on the interaction between the proposal made by the External Auditor or that of the Controller on the recruitment of external specialists for the desk-by desk evaluation of staff, and the work that the Audit Committee would do in relation to the evaluation.



119. The Delegation of France thanked the International Bureau for the information provided. It nevertheless regretted, in the same way as the Delegation of Romania, that no information had been received in writing at least at the beginning of the session. Since it had been decided at the 2005 Assemblies that the Program and Budget Committee should deal systematically with the follow up to the implementation of the recommendations made by the JIU, the Delegation stated that a formal item on the follow up should be included in the agenda for future Committee sessions and that a minimum of information should be given in writing to delegations in order to avoid them having to raise questions during meetings. Furthermore, coming back to issues it had already raised the Delegation asked whether, concerning the matters supervised by Mr. Gurry in relation to the PCT, and in particular that relating to the introduction of measures for the direct payment of fees or for other proposals, the PCT Assembly was going to deal directly with the measures envisaged by the International Bureau or whether the examination of those measures was going to be submitted in advance to a PCT technical committee, since the PCT Assembly did not appear to be the appropriate body for discussions of a technical nature. Furthermore, the Delegation expressed concern at the explanations given by Mr. Gurry on the first tests for the pilot projects on the “all electronic” file which should generate productivity gains, and requested clarification of the reasons for which, in document WO/PBC/8/3/Corrigendum of July 20, 2005, the productivity gain that was provided for the processing of PCT files was no longer six per cent, as had been submitted to the Program and Budget Committee meeting in April, but five per cent, thus reflecting a reduction in the productivity gain of one per cent. Finally, as to matters relating to human resources, the Delegation thanked the Director of the Human Resources Management Department warmly for giving delegations, in response to a request made by the Delegation of the United States of America, extremely precise figures relating, for 2005, to the breakdown between those occupying fixed posts and holders of short-term contracts,. In that regard, the Delegation wished that the same type of data should also be provided for 2003, since only an overall figure of a little over 1,400 people was available. The Delegation also emphasized that those figures should be treated with caution, since staff members could be full time but also part time, both for permanent posts under the budget and for short-term contracts. The Delegation believed that changes in the total cost of salaries should also be taken into consideration, in particular in the PBC, i.e. by including not only permanent posts and short-term contracts, but also the contracts of consultants and experts, as presented by the Controller in the budget, a presentation which the Delegation had appreciated.

120. The Delegation of the Russian Federation noted that while several measures had been envisaged and outlined by the Secretariat in respect of the development of a human resource strategy, it would be important to get a certain amount of information from the Secretariat on the Organization’s human resource strategy. In this connection, the Delegation stated that it had expected a separate document on the human resource strategy that would contain a whole series of detailed proposals from the Secretariat. Such a document, the Delegation added, would enable the Committee to be fully prepared to take decisions in this area and to engage in more substantial and detailed discussions.

121. Prior to responding to some of the questions, the Controller stated that while dissatisfaction had been expressed by some speakers on the absence of a written report on the implementation of the JIU recommendations, it was important to note that this item had not been included in the draft agenda for the meeting. She added that the Secretariat was only providing an oral briefing in response to the request made on the first day of the meeting. Furthermore, it had been agreed in the Assembly that, with respect to human resources, a document would be submitted to the Assembly in 2006. Work on this was underway. The

Controller confirmed that all that had been said by the Secretariat on these matters would be reflected in the draft report. In response to the question of the Delegation of the United Kingdom, the Controller confirmed that the Secretariat was preparing the terms of reference for the external company that would be engaged to conduct the desk-to-desk exercise. The Secretariat would be in a position to present the draft terms of reference to the Audit Committee when it was ready to meet. In response to the question from the Delegation of the United Kingdom related to UPOV, the Controller stated that, while this point would need to be reconfirmed, to the best of her recollection no decision had been taken by the Council. In response to what the Delegation of the Democratic Republic of the Congo had said, the Controller stated that the desk-to-desk assessment would be conducted by a company selected through a tender process in accordance with the revised procurement rules of the Organization.

122. Deputy Director General Gurry confirmed that the proposal related to JIU Recommendation 5 would be presented in 2006.

123. In reply to the question from the Delegation of France on the body or organ to which the PCT study on currency fluctuations would be presented, the Secretariat indicated that it was open to suggestions in this regard. It remarked that both the Program and Budget Committee and the General Assembly were very interested in following the progress of the implementation of the JIU's recommendations. However, as far as the adoption of decisions with respect to matters concerning PCT fees was concerned, the PCT Assembly would be the competent body. Thus, there could be more than a single body monitoring and following the implementation of recommendations. However, if the adoption of decisions was required, which would be the case with respect to the adjustments in the exchange rate mechanism envisaged under the PCT Regulations and Administrative instructions or with respect to the currencies of payments, this would be the domain of the PCT Assembly.

124. In reply to the question on the productivity gains in the PCT sector, the Secretariat said it was not possible to give a firm measure of productivity gains for a partially implemented measure, i.e. electronic filing. In this respect, the Secretariat referred to paragraph 244 of the General Report of the Assemblies of Member States of 2005 (document A/41/17): "This, in its [Secretariat's] experience to date, first of all required a great deal of training and formation on the part of the staff, which could distort measures of productivity. Secondly, in so far as the Secretariat was able to have preliminary indications on productivity, these were extremely positive and delegates would have seen that from the presentation that was made. As one example, in the past 12 months, productivity within the Office of the PCT had improved by 18 per cent using the measure of the number of international applications processed per employee, which had gone up from 213 per employee, to 253.

125. The Secretariat provided another measure of productivity as expressed by the evolution of the total of number of staff employed in the Office of PCT. In this respect, between December 2003 and December 2004, the total number of PCT staff decreased from 518 to 487, or a six per cent change. Furthermore, the Secretariat emphasized the fact that the above example constituted one measure of productivity, which was not necessarily the only measure of productivity. The Secretariat was not in a position to give a firm answer on the question of productivity increase in the PCT until electronic filing was fully deployed. This was due to the fact that, while the deployment was underway, many staff members were involved in learning a different method of processing which would improve productivity measures. The Secretariat indicated that the preliminary indications in terms of the containment of staff increases, while at the same time experiencing an increase of around 7.5 per cent in the

number of applications processed, were very positive. The Secretariat however reiterated that no firm formulas could be given at this stage and until the full deployment of electronic dossier.

126. In respect to the progress of measures taken in the area of human resource management, the Secretariat indicated that it would prepare a summary note containing the relevant information provided earlier to Member States. Furthermore, the Secretariat referred to three main elements which would need to be considered in regard to the human resources strategies: first, the relevant recommendations of the JIU, most of which were oriented towards management practices; second, various policy issues, which might be part of the main component of the human resource strategy; and third, the results of the upcoming desk-to-desk review. These three different components put together in a new strategy would strengthen the organization in the future. It was also very important to go through some guidelines as elaborated hereafter. In relation to competence, the Secretariat had almost finished the complete update of job descriptions of all the staff in the Organization, which was considered to serve as an important input for the desk-to-desk exercise. In relation to issues of gender and geographical balance, these would be important policy issues and, in this respect, the Secretariat would look to best practices in the UN system. In relation to the question raised by the Delegation of Nigeria, the Secretariat indicated that there had been no staff promotions, no reclassifications of posts and no new posts in 2005. Such situation resulted in the lack of incentives for the staff as a whole. Other points to be taken into consideration when putting in place a new policy on promotions is the availability of financial resources for this particular concept and the compliance with best practices of the UN System. The Secretariat had gone through a very complex process in 2005, and it was its view that conditions currently existed to move forward and to address the new policies, including the desk-to-desk review. In relation to the question of the Delegation of France, the Secretariat would be able to provide the detailed information on the breakdown of WIPO personnel for the period from 2000 to 2005, including for fixed-term and temporary employees. In relation to the question from the Delegation of the Russian Federation, the Secretariat indicated that a document on the human resources strategies would be presented to the General Assemblies in September 2006. However, the different elements described earlier would need to be put together to ascertain the overall picture of what would constitute the human resources strategy, of which the desk-to-desk review would be an important component.

127. The data presented by the Director of the Human Resources Management Department under this agenda item are summarized in Annex II of this report.

#### PROPOSALS ON A NEW MECHANISM TO FURTHER INVOLVE MEMBER STATES IN THE PREPARATION AND FOLLOW UP OF THE PROGRAM AND BUDGET

128. The Secretariat introduced document WO/PBC/9/4, entitled "Proposals on a New Mechanism to further Involve Member States in the Preparation and Follow Up of the Program and Budget". In September 2005, the Assembly had decided that a proposal for a new mechanism to further involve Member States in the preparation and follow up of the Program and Budget of WIPO should be submitted to the 2006 Assembly for implementation in the 2008/09 biennium, and that this item should therefore be put on the agenda of the next session of the Program and Budget Committee. To follow up on this, the Secretariat had prepared a preliminary proposal listing possible issues for consideration in relation to three clusters, namely, the review of the performance of the Organization in the previous biennium, the process for the preparation of the next Program and Budget and the monitoring of the

implementation of the newly approved Program and Budget. The document also listed the reporting and monitoring tools currently available and contained a few suggestions as to how these could be further improved. Concerning the process, the last decision taken by Member States on the subject was in the year 2000. A possible way to improve this process may be a draft outline of program priorities and overall budget levels which could be submitted by the Director General to Member States in off-budget years. Regarding monitoring of the implementation of the approved Program and Budget, a relevant issue may be periodicity of reports. In this connection, the Secretariat was ready to put biennial accounts of a given biennium on the agenda of the Assemblies one year earlier than had been the practice in the past. This applied equally to financial management reports and the External Auditor's reports. Also, interim financial statements could be expanded and fine-tuned, particularly in respect of information on income and income projections. The Program and Budget Committee was invited to express its views on the new mechanism on the basis of this proposed issues. These views would be integrated into a new document which would be prepared by the Secretariat for submission to the 2006 Assembly.

129. In reply to a question by the Chair, the Secretariat clarified that the Program and Budget Committee must meet before May 1 of the year preceding the approval of the budget, as established in the WIPO Financial Regulations. Whether more than one meeting of the Program and Budget Committee was actually held in a given biennium was a matter of practice. In certain biennia there had been two sessions of the Committee before the adoption by the Assembly by the proposed Program and Budget, and in other biennia only one.

130. The Delegation of Switzerland, speaking on behalf of Group B, welcomed the decision of the September 2005 Assemblies of WIPO Member States to increase the involvement of Member States in the preparation and follow up of the Program and Budget which, to the Group, meant strengthening the role and impact of the Program and Budget Committee, but without micro-management. Members of Group B were of the view that the PBC should become the place where the Program and Budget proposal, its execution and final implementation, and finally the lessons learned could be discussed and actions recommended to the General Assembly in a timely and accurate manner. As had been suggested by the Secretariat in document WO/PBC/9/4, the evaluation and review of the performance of the Organization in the previous and ongoing biennium should be done far earlier. Not only the interim financial statements but also the program performance reports, program implementation overview, reports on the biennial accounts and financial management reports needed to be enhanced and qualitatively upgraded and improved. These documents should become concise and operational working papers. Furthermore, tools for benchmarking and performance measurement within the results-based management framework needed to be further refined and improved. Group B concurred with the suggestions made by the Secretariat to hold PBC meetings in off-budget years, to formulate a budget outline for the coming biennium as soon as possible, and to incorporate feedback into the draft Program and Budget which would be reviewed again in the PBC. All the other suggestions mentioned in the document concerning monitoring of implementation of the approved Program and Budget were interesting and merited further examination.

131. Furthermore, Group B attached the greatest importance to regular reports from the Audit Committee, which the PBC should receive in accordance with the relevant decision of the General Assembly. Members of Group B also looked forward to engaging in an interactive dialogue with the Internal Auditor on the occasion of his regular presentations to the PBC. The Group urged the Secretariat to schedule the presentation by the Internal Auditor of all of his reports to the PBC in the most timely way.

132. In conclusion, Group B welcomed the exchange of views concerning the further involvement of Member States in the preparation and follow up of the Program and Budget and looked forward to a concrete and successful outcome. It welcomed the suggestion of the Secretariat that consultations could be organized prior to finalization of its document if needed. Furthermore, in the proposed document, the new mechanism that would be implemented with the Program and Budget for the 2008/09 biennium should be presented to the 2006 session of the Assemblies of the Member States for approval. While Group B fully agreed with that suggestion it nevertheless expected that this mechanism could already be used to review the on-going budget in 2007, as well as in the presentation of budget expenditures for the 2006/07 biennium.

133. The Delegation of Thailand, on behalf of the Asian Group, wished to reiterate its position on the issue of the new mechanism to further involve Member States in the preparation and follow up of the Program and Budget. It thanked the Secretariat for providing some suggestions on the issue.

134. The member countries of GRULAC thanked the International Bureau for preparing document WO/PBC/9/4 and supported its proposal for the current PBC session to be considered a preliminary round of discussions. GRULAC considered, however, that informal consultations were necessary in order for the PBC to finalize a document to be submitted to the General Assembly. Member States' participation in the design of the mechanism was essential. Otherwise, a contradiction would arise in that participation in the Organization's affairs was requested on the one hand and, on the other, the Member States did not help to produce the mechanism guaranteeing such participation. In that connection, GRULAC proposed that at least two informal consultations and one official PBC session be held before the 2006 Assemblies.

135. The Delegation of Colombia expressed its support for the statement made by the Delegation of Mexico on behalf of GRULAC concerning the proposals, the mechanism being established and methodology. It thanked the WIPO Secretariat for preparing the working documents for the current session, which it considered very useful in moving towards the Committee's goal, especially that of strengthening its functions and expanding the Committee's work. Referring to document WO/PBC/9/4 relating to the proposals for the establishment of a budgetary preparation mechanism and the follow up to the implementation of programs and activities, the Delegation said that it had studied the document with great interest and that an essential aspect of the future mechanism to be established was the strengthening of the Committee's program of work, for which reason at least two formal meetings of the Committee during the year should become a regular feature. Similarly, it said that it was necessary for the Committee to meet once at the beginning of each half year in order to develop fully a renewed mandate that would emerge from the 2006 Assemblies of Member States and, taking into account the scope of the work being done, the possibility of setting up subject-based working groups, consisting of Committee members, should be considered in order to facilitate and enhance the work done on certain subjects managed by the Committee.

136. The Delegation said that more intensive work by the Committee would allow the Member States of WIPO to strengthen and make more effective the current examination and evaluation mechanisms. It pointed out that the reports on program performance, the aim of which was to assess objectives and results, should be submitted more regularly in order to facilitate their study and follow up by the Member States. It added that currently such reports

were submitted annually or every two years to the Assemblies, for which reason it would be useful for the Committee to conduct preliminary examinations of the reports and thus be able to make comments on them, which would also be raised at the Assemblies. The Delegation continued by saying that submitting such reports every six months could facilitate periodic analysis and continuous study by the Committee. The Delegation stated that as regards the other mechanism, known as a program performance overview, which was designed to provide information on WIPO's activities, it considered it appropriate for such overviews to continue to be presented. Since it was issued every six months, the Delegation of Colombia emphasized the importance of the fact that such an overview could also be considered by the Committee at each half-yearly meeting, and thus, in its work to analyze such overviews, the Committee could issue comments and prepare recommendations for the Secretariat in respect of the progress, needs and priorities identified. Thus, the exhaustive and periodic analysis of the overview and budgetary performance would also allow periodic supervision of the budget and program performance to be conducted by the Committee. The Delegation added that, as to the biennium accounts, financial management reports and Auditor's report, it considered it necessary to strengthen the Committee's work by means of the preliminary analysis of those reports before they were submitted to the Assemblies, since the Committee could therefore also make comments and forward them to the Assemblies together with the reports. The Delegation considered the Secretariat's proposal timely and accurate regarding the fact that the financial reports in question should be submitted a year earlier than was currently the case.

137. The Delegation referred to the work done to prepare and formulate new WIPO budgets, for which it considered it essential to establish a clear and effective mechanism for budgets based on participation, allowing an effective and functional contribution to be made by Committee members. It considered that the idea of a summary report of program guideline proposals submitted by the Secretariat could make a significant contribution to greater involvement by the Member States in the budget planning activities. It emphasized that such summary reports should be submitted for analysis by the Committee at its first session of the year, during the first half of the year, and that the Committee could therefore consider the proposals submitted and draw up recommendations and new proposals for inclusion in the draft budget. It continued by saying that at the Committee's second session of the year, during the second half of the year before the Assemblies, a summary revised report would be available, which would include the contributions that Member States had made and which would again be made available to the Committee for analysis and definition. An effective contribution by the Committee to the preparation of budgets would allow proposals to be formulated and adjusted to a greater extent to the needs of the Member States. The Delegation reiterated that the new mechanism to be designed and submitted to the 2006 Assemblies should come into operation immediately, i.e. work should be done within the framework of the new mechanism for the budget for the following biennium.

138. The Delegation concluded that, as regards paragraph 5 of the document submitted by the Secretariat, although it was necessary to develop a process of informal consultations and also, as had been made clear by the Regional Coordinator, to hold a meeting or various formal additional meetings of the Committee, it considered that the product of those meetings and consultations on the mechanism, prior to submission to the Assemblies, should be revised and defined by the Program and Budget Committee at a formal meeting so as to bring the results to the attention of the Assemblies in an appropriate manner.

139. The Delegation of Romania began by stating that further involvement of Member States in the running of the Organization was a basic requirement for any member-driven organization. This was a target that all delegations wanted to achieve and was quite

well-defined in the General Assembly's September 2005 document. However, this did not mean that Member States should embark upon micro-management of the Organization. The Delegation emphasized that all delegations should keep in mind the fact that, whenever a committee, council, working group or other structure involving Member States of the Organization met, their work should be based on substantive documents and not simply reports. This was a warning about the pace and the frequency of meetings of one single committee.

140. Regarding ways to further involve Member States in the preparation and the follow up of the Program and Budget, the Delegation of Romania was of the view that Member States needed to consider the issue under discussion from two points of view: how to improve current mechanisms and what mechanisms to put in place for the future. The Delegation was aware that the Committee's work of reflection might have an impact on the definition of the Program and Budget Committee's mission as well as on the future involvement of all Member States. With respect to improving the actual mechanisms, the Delegation supported the Secretariat in its view that both the content of documents and their periodicity should be examined. The Delegation emphasized that the inventory of activities carried out by the Organization was very important. It was at least as important to know what the beneficiaries of those programs said about the Organization's activities in their country or region. The Delegation considered that it would be quite appropriate to receive these reports on a yearly basis.

141. The Delegation of Romania was also of the view that a review of the WIPO Financial Rules and Regulations should take into consideration current discussions on appropriate mechanisms. The Delegation welcomed the Secretariat's proposition to enhance of the content of interim financial statements and to submit them to the Assemblies of Members States one year earlier than had been the practice: this would have a positive effect in terms of increasing both transparency and accountability in the Organization. The Delegation viewed the proposal that the Director General share his proposals on program direction with Member States one year earlier as a timely idea. Finally, the Delegation considered the suggestion to convene the Program and Budget Committee on an annual basis, in order to address the implementation of the approved Program and Budget by examining mid term reviews on those occasions, a good one.

142. The Delegation of Iran associated itself with the statement made by the Delegation of Thailand on behalf of the Asian Group and recalled that the Member States, being aware of the existing mechanism of the Program and Budget, had decided at the eighth session of the PBC to develop a new mechanism to further involve of Member States in the process of preparing the Program and Budget for the following biennium. In this regard, the Delegation was of the opinion that the new mechanism arising from the discussions in the current session of the Program and Budget Committee for further involvement of the Member States should be recommended for decision to the 2006 General Assembly. In the Delegation's view, the Committee should be open to discussion of any proposals and should not limit itself to a certain number of issues. The Program and Budget Committee was the competent body to discuss and recommend outcomes to the General Assembly. The proposed Program and Budget for the next biennium should be prepared in detail and sent in advance to Member States for their consideration. This issue should be incorporated into the agenda of the sessions of the Program and Budget Committee with an aim to provide a clear picture for the stronger engagement of Member States in the Program and Budget process. Regular reports of programs implementation, as well as feedback from Member States, should be provided through the PBC. Allocating more time, including convening a Program and Budget

Committee meeting before sessions of the General Assembly, was an alternative solution that should be taken into consideration. Outcomes of all discussions should be recommended by the Program and Budget Committee to the General Assembly for its approval.

143. The Delegation of Nigeria supported the statement of the Delegation of Romania. It also welcomed the Secretariat's document and the prompt and competent manner in which it had been provided to the Delegations. It expressed its view that all Member States could benefit from a short briefing on the process of the mechanism currently in place to determine if there had been deficiencies, improvisations and shortcomings which warranted a review of the mechanism and which might determine whether Member States not already involved in the process would actually call for greater involvement. In this respect, it was important for the Secretariat to respond to the Chair's suggestion to provide a detailed assessment of the current system. Furthermore, the Delegation pointed out that the document before the Committee provided sufficient food for thought to all Member States and it was important that the PBC reflect carefully and comprehensively on the proposals made by the Secretariat so that all Member States could determine the efficacy of the suggestions made during discussions and see whether they met the requirements of the Member States in getting involved in the mechanism of the preparation of the Program and Budget in the Organization. In this connection, the Delegation called for further consultations on the matter under review with a view to receiving expert advice, if necessary, from respective capitals so that greater input and assessment of the situation could be made.

144. The Delegation of Brazil attached a great deal of importance to the current item of the agenda. In its view, the experience of the recent past had shown the shortcomings of the Organization's current budgetary process and it had become very clear that the voices of many Member States, in particular those of developing countries, had not often been heard in the process of the elaboration of WIPO's Program and Budget. The Delegation was of the view that it had become evident at the meetings held in the course of 2005 on the current matter that WIPO's current budgetary process had shortcomings, and that was the reason why the General Assembly had chosen to instruct the Program and Budget Committee to devise a new mechanism to further involve the Member States in the process of elaboration of WIPO's Program and Budget. This decision had been strongly supported by a number of developing countries, which in fact felt that the approval of such a decision was necessary for them to go along with the adoption of the Proposed Program and Budget for the 2006-2007 biennium. It was very important to make this process more inclusive and more member-driven. In this regard, the Delegation considered document WO/PBC/9/4 a useful one. However, the text did not constitute a proposal for a new mechanism, but merely listed possible issues that Member States might wish to consider in devising the new mechanism. It was therefore clear that further work would be necessary.

145. The Delegation of Brazil also noted that the document under review had been distributed to Member States on relatively short notice and during the holiday season and, as a result, was still under consideration by its national authorities. For this reason, the Delegation only had preliminary remarks to make on the list of issues that had been elaborated and proposed by the Secretariat. In this respect, the Delegation referred to paragraph 6 of document WO/PBC/9/4, focusing on section 6(ii), which specifically dealt with the process for the preparation of the WIPO's new Program and Budget. The Delegation considered this a central issue that needed to be properly addressed. Although monitoring, evaluation and review of performance were similarly important issues, the Committee would not be properly discharging the General Assembly's mandate if it did not focus on the issue of the process of preparing the Program and Budget. The Delegation noted that the ideas raised by the



Secretariat in the document under review were interesting and it would be useful to receive the appropriate outline reports from the Director General as soon as possible. The Committee's goal should be a process of discussion and elaboration that would be interactive, inclusive, comprehensive, member-driven and transparent. In this regard, it could be constructive to look at the examples of other organizations in the UN system, including the Fifth Committee. Examples provided by other members of the UN family could be considered. Furthermore, the Delegation expressed the view that the periodicity of meetings was a key issue in ensuring that the discussions on the Program and Budget were truly inclusive and member-driven. In this regard, the Delegation of Brazil expressed strong support for the proposal of the Delegation of Colombia to consider having Program and Budget Committee meetings every year and every semester and also offering the possibility of *ad hoc* meetings of the Committee.

146. The Delegation of Brazil expressed its understanding of the concerns regarding the possibility of micromanagement raised by some Delegations. However, the Delegation doubted that the issue of micromanagement would be of concern with respect to the process of the elaboration of the Program and Budget. The Delegation expressed its support for the statements made by the Delegation of Mexico on behalf of GRULAC and the Delegation of Colombia, among others, and indicated that this was a first and preliminary stage of the work, as suggested by the Secretariat's document. The Delegation therefore preferred to see the possibility of another session of the Program and Budget Committee to further consider the current issue and formulate any necessary decisions for adoption by the next General Assembly. Informal consultations would be necessary, and these should be properly structured, inclusive and open to all interested members of the Program and Budget Committee. In this regard, the Delegation suggested that the Committee should attempt to devise a schedule of consultations at the current session. The Secretariat could for instance be asked to prepare a proposal of the new mechanism by the end of March 2007. Consideration could then be given to holding the first round of informal consultations in April. In the light of the outcome of those informal consultations, the proposed mechanism could then be revised by the Secretariat for a possible second round of informal consultations in June. At least two rounds of informal consultations would probably be necessary on this issue, but additional rounds of consultations could be organized if deemed necessary. The Committee had been given a very important mandate by the General Assembly and it should ensure that the proposals submitted to the General Assembly were agreeable to all Member States.

147. In response to the request of the Delegation of Nigeria, the Legal Counsel confirmed that the composition of the Program and Budget Committee did indeed change from time to time. Currently, the Program and Budget Committee had 41 members, which had been elected in October 2005 and which would serve until September 2007. The selection process was essentially a political one. Normally, States were first selected through an informal process of consultation, sometimes through the Group Coordinators. The slate of candidates was chosen by each of the seven groups represented in WIPO. That slate was in turn presented to the General Assembly for its endorsement. The current Program and Budget Committee included eight representatives of the African Group, seven from the Asian Group, ten from Group B, five from the Central European and Baltic States Group, seven from GRULAC, three from the Central Asian, Caucasus and Eastern European Group and China, for a total of 41 countries.

148. The Delegation of India expressed its gratitude to the Secretariat for the extensive background work that had been done in preparation for the meeting. On the issue of a proposed new mechanism to further involve Member States in the preparation and follow up

of the Program and Budget, the Delegation associated itself with the position of the Asian Group as articulated by the distinguished delegate of Thailand. It noted document WO/PBC/9/4 in which the Secretariat had shown, *inter alia*, its readiness to modify the periodicity of its accounts and management reports, and interim financial statements. Member States sought greater engagement with the working of international organizations such as WIPO (i) to facilitate and ensure national capacity building so as to enable the different stakeholders to better understand the pros and cons and the implications for them in the ongoing debate on various issues, thereby enabling Member States to pursue positions based on the informed inputs of the different stakeholders; (ii) for assistance and support in national institution and infrastructure building; and (iii) to ensure that designing of programs, prioritization among them and budgetary allocations were in conformity with the needs and requirements of the Member States - taking into account their unique positions, their inherent strengths and comparative advantages, and the vast diversity in their development levels.

148bis. To this end, Member States sought greater involvement to ensure that the program and budget was responsive to their demands to ensure confidence in the way these programs were designed and credibility in the way the funds were utilized and the finances were channeled, and to ensure strengthened inter-governmental oversight. Discussions on evolving a new mechanism to further involve Member States in the preparation and follow up of the Program and Budget, beginning with the Program and Budget for 2008/09, as endorsed by the last WIPO Assembly, were therefore a step in the right direction flowing from the important mandate given to Member States by the General Assembly. Document WO/PBC/9/4 referred to discussions in the WIPO Audit Committee on the contours of this new mechanism. In the Delegation's view, the terms of reference of the WIPO Audit Committee focused on the issue of ensuring and maintaining financial propriety. The PBC must however also deal in detail with the issue of identifying programs and assigning priority to them in accordance with the needs and demands of the Member States. Discussions on a new mechanism should therefore continue within the PBC. It could, however, be useful for the Secretariat to study the mechanisms and best practices being pursued in other specialized agencies of the UN to facilitate further detailed discussion and work among WIPO Member States in structured informal consultations - which would be necessary and should commence as soon as possible - and, possibly, another meeting of the Program and Budget Committee on the matter.

149. The Delegation of Argentina thanked the Secretariat for the document presented, despite the short time available, and said that it had had little time to analyze the document in depth and to produce concrete proposals. Nevertheless, from all the statements it had heard it noted that a broad consensus existed on the proposal and it subscribed fully to the comments made by the Delegation of Mexico on behalf of GRULAC, and the statements made by Colombia, Brazil and India.

150. The Delegation said that it would nevertheless refer to a number of fundamental points, since Argentina had been a co-sponsor, together with other countries at the General Assembly, of the proposal that had finally been adopted. As other delegations had pointed out, Argentina considered it to be fundamental to improve the participation of Member States in order to make up deficiencies that had occurred in previous years. The Secretariat listed three important subjects in the proposal but, in the same way as the Delegation of Brazil, the Delegation of Argentina attached the highest importance and priority to the preparation of and discussions in relation to future budgets. It was completely inappropriate for a budget to be adopted at a single meeting held in a biennium, over a three-day period. For that reason, one of the fundamental subjects was the regularity of the meetings held. It said that another of the subjects was probably the form of presentation, structure and design of the budget itself, a

form which would enable it to be understood as well as possible and ensure transparency and the correct allocation of funds. As to the membership of the Committee, the Delegation said that it was not in agreement since the membership had been revised some years previously and its treatment could hinder the work connected with procedural aspects, with a view to improving them and ensuring correct participation by all parties. As with other delegations, it said that a very preliminary first round of opinions was being gathered and it was necessary to conduct a process of informal consultations, but one to which all the members of the Program and Budget Committee were invited so as to formulate a recommendation to the General Assembly. For that reason, the Assembly had requested the Program and Budget Committee to include the subject in the agenda. Moreover, the Delegation supported the proposal made by India for some kind of document to be made available at the following meeting that would allow a kind of system to be structured, or an outline of the best practices in other international organizations, including obviously the main body which was the Fifth Committee in New York relating to procedural aspects, regularity of meetings and structure.

151. The Delegation considered it relevant to highlight, as it involved the decision proposed in document WO/PBC/9/4, its support for the participation of the WIPO Audit Committee in the process. Since it attached great importance to the establishment of the Committee, it was open to the member experts of the Committee being able to put forward informally any recommendation to the Committee as to specific procedures or on the basis of its mandate. It did not, however, believe that at any time the Audit Committee could replace what were the inherent tasks of the Program and Budget Committee and the Member States. Although it could accept that recommendations or opinions were put forward from the technical point of view, those recommendations should be made directly to the Program and Budget Committee so as to be analyzed in that forum and to become part of the analysis procedure which would produce a mechanism that optimized Member States' participation in preparing the Program. Finally, the Delegation added that, as regards the documentation for a future meeting and the elements which might constitute a possible budget, the concepts outlined by the Delegation of Colombia were very valid and worthy of serious analysis.

152. The Delegation of Switzerland thanked the International Bureau for the information received on the agenda and for the documents presented which had detailed important subjects for discussion in order to develop proposals on a new mechanism which would allow the Member States to participate more in the preparation of and follow up to the Program and Budget. The Delegation expressed satisfaction that the matter had been dealt with by the Committee and expressed the wish to see rapid results from the work actually done. In the first instance, the Delegation said that it was in favor of the proposals made in paragraph 4 of the annex, which were designed to bring forward by a year the submission and examination of documents and, in that regard, it asked whether it was already possible to implement the proposal in 2006 and for the documents to be submitted to the forthcoming Assemblies. Furthermore, it hoped that the proposal would become a rule by the 2008/09 biennium and that the Committee could thus examine the results of the biennium in progress the following year. Furthermore, it expressed support for the subjects of discussion mentioned in paragraph 5 of the annex, designed to strengthen the content of the interim financial statements. It mentioned that at a later stage it should be identified whether other documents should also be prepared and whether it was appropriate to submit them to the Committee and within what deadlines. The Delegation added that both types of measures should be read and considered in relation to the subjects for discussion in paragraph 8 of the annex concerning, *inter alia*, the schedule of the Program and Budget Committee sessions. The Delegation emphasized the importance it attached to that central issue and that it would be useful to fix in clearer terms the regularity of future meetings, while noting that the number and duration of

the meetings should not be increased greatly in relation to the current number, since that would not exclude extraordinary meetings being held where necessary. Thus, in addition to the Program and Budget Committee meeting in a budget year, designed to examine and recommend the adoption of the new Program and Budget, it would be useful to plan, in an off-budget year, for a meeting, probably in the middle of the year, intended to examine the interim implementation of the biennium and at the same time to be able to examine the performance of the previous biennium. Such meetings would provide evidence of how the programs and budgets were implemented. The Delegation explained that it should also be borne in mind that the subjects could be incorporated, where appropriate, in the framework for the revision of the Financial Regulations and the schedule of Program and Budget Committee meetings should be fixed more clearly. It also underlined the importance for the Member States of being closely involved in the preparation of the proposals that would be put to the 2006 Assemblies.

153. The Delegation of the Russian Federation thanked the Secretariat for the document and for the constructive approach that it had clearly taken on this very important issue. The Delegation believed that a more active involvement of Member States at all stages in the process was necessary in the preparation of programs and budgets and also in their implementation. It shared the view expressed by earlier speakers that the task at hand was to develop new mechanisms that would lead to more active involvement of Member States throughout the process. It welcomed the efforts of the Secretariat to make more clear cut presentations of financial information, particularly in interim financial statements. It believed, however, that for full involvement of Member States in the budgetary preparation process for the different programs as well as for their implementation, it would be appropriate for the PBC to meet at least twice a year. The Delegation suggested that at meetings of the Committee it would also be possible to hear reports from the Audit Committee on its work in the preceding period. During the preparation period of a Program and Budget it was important to get information on program implementation. Some elements of the mechanism under discussion could already be put into practice and would already make it possible for Member States to begin to work actively in the course of the 2006/07 biennium.

154. The Delegation of Algeria said that the discussion should move in the direction of the aims chosen by the Member States for the Organization. For that purpose, the Delegation asked the Committee to concentrate, as affirmed by the Delegations of Brazil and Argentina, on the question of preparing the Program and Budget, and above all on development activities. It was at that level that the Delegation considered there to be failings. Furthermore, it said that it shared the idea proposed in paragraph 7 of the document, where it was suggested that a report be prepared by the Director General on the direction and priorities of the budget. Finally, the Delegation said it was in favor of holding other Committee meetings.

155. The Delegation of Serbia and Montenegro stated that Serbia and Montenegro was not currently a member of the Program and Budget Committee but the Delegation had followed the discussions on the new mechanism for further involvement of Member States in the preparation of the Program and Budget with great interest. The Delegation had heard very interesting ideas and proposals from other delegations which it intended to study in greater detail. The Delegation welcomed the proposal of the Secretariat concerning the new mechanism, specifically to review the process for the preparation of the new program and budget and the monitoring of the implementation of the approved program and budget. It considered these to be two phases of the same process. Through monitoring the implementation of the approved Program and Budget for the 2006/07 biennium, the

Committee would become involved in the preparation process of the new one and thereby enhance performance. The Delegation looked forward to defining the modalities for discussing specific programs of specific interest to certain countries or to certain groups of countries or regions. The Delegation supported the proposal to increase the periodicity of the meetings of the Program and Budget Committee as well as to consider the possibility of *ad hoc* and informal consultations of the Committee. It believed that the new mechanism would be a valuable tool for enhancing the Organization's perception of the needs of its Member States. Bearing in mind that this was a process which would have significant implications on the further work of the Organization, the Delegation urged the Secretariat to open these consultations to all the Member States of the Organization.

156. The Delegation of Japan said that it believed that WIPO was a member-driven Organization. It was therefore important to have a mechanism for its Member States to participate more fully in the preparation and follow up of the Program and Budget. At the same time, it was afraid of the potential for overlap of considerations by the PBC, the internal audit mechanism and the Audit Committee. It also feared a potentially unnecessary increase in the number of meetings of the PBC and the complication of the process at the PBC resulting from the introduction of the new mechanism. In principle, the Delegation supported document PBC/9/4, including its Annex. It appreciated the comprehensive document prepared by the Secretariat and wished to make some preliminary comments on some paragraphs in the Annex of the document. First, the Delegation basically supported the contents of paragraphs 4 and 5 of the Annex. With regard to paragraph 5 of the Annex, it welcomed the proposal that more detailed information be given in the interim financial statements. In this process, it believed that data such as that shown in Table VII of the Program and Budget for the 2006/07 biennium was a good example of the kind of important information that it needed. This table (entitled "Estimated Expenditure for the PCT Sector, including PCT Share of Common Support Services") showed how much the income of the PCT was used for the programs related to the PCT. Table VII had been prepared by the Secretariat after a request from its Delegation. It considered this table important in informing Member States about whether or not PCT income—which was 80 per cent of WIPO's total income—was used properly. The Delegation's second comment concerned paragraphs 6 and 7 of the Annex. It also supported the contents of those paragraphs and welcomed new modalities for further involvement of the Members in the preparation of the Program and Budget and presentation of additional information to the Member States, especially in off-budget years. Program performance reports which showed the activities of WIPO up to a particular point in time of a given year were very important. With such information, Member States would be able to provide opinions on the directions in which the next biennium's programs should go toward, as well as priorities and financial prospects.

157. The Delegation of France thanked and congratulated the International Bureau for the document which represented a difficult but beneficial self-evaluation exercise for the International Bureau, since it identified the weaknesses of the current system and proposed improvements. The Delegation expressed its general support for the International Bureau's proposals which were addressed to a committee responsible for budgetary and financial matters, since the General Assembly had to take more political decisions. As to the regularity of the Committee's meetings, the Delegation expressed the opinion that the current principle rule, i.e. that a meeting was held every two years to prepare the budget for the following biennium, was a good practice. Nevertheless, as indicated by the Delegation of Switzerland, it considered that an annual meeting focussing on two objectives would certainly be more effective. The first objective would be to provide an update on the biennium in progress and issue, where necessary, an opinion to be considered by the General Assembly, based on the

assumption that a revised version of the initial budget would be necessary. The Delegation noted that the results of the desk-by desk review could create such a situation, obliging the Committee to consider amendments to the 2006-2007 budget and submit a possible opinion to the General Assembly in that regard. The second objective would be to prepare the draft budget for the following biennium taking into account past experience. In that regard, the Delegation endorsed the statement made by Group B and also the statements of other delegations, and thanked the International Bureau for its proposal to submit the interim financial statements early, on an annual basis and in a more complete manner, as suggested by the Delegation of Japan. The Delegation also emphasized that the financial statements should appear as documents intended for the Program and Budget Committee, to be included as such in the meeting agendas, and made available to delegations in advance. A second instrument which would be of use would be a list of indicators containing the key figures, which could be forwarded by the International Bureau to the Member States every six months. The table would reflect for example the situation with regard to filings for patents under the PCT, Madrid and the Hague, receipts and expenditures. The Delegation stressed that its proposal was limited to the figures available to the International Bureau and which could be communicated to the Member States by the regional coordinators or on the WIPO site. As far as the financial management report was concerned, the Delegation expressed the view that it would be useful to improve the presentation of the report, by mentioning in the reference tables the amounts provided for in the initial budget, those in the revised budget and finally those corresponding to implementation. In addition, the financial management report should be available on the WIPO site before the sessions and be included as a formal agenda item for Committee meetings. The Delegation emphasized that the current exercise, conducted initially, could affect the draft revised version of the Financial Regulations. It said that consideration should also be given to the work of the Audit Committee on that matter, since the latter had been mandated to assess the effectiveness of the Financial Regulations. Furthermore, the Delegation said that it was necessary to benefit from the Financial Regulations revision exercise so as to review the methods of presentation or take into account certain elements in the presentation of the financial documents. Currently, there appeared to be no provision for certain potential expenses. By way of example, the Delegation said that the 2002-2003 financial management report referred to 53 million Swiss francs which would potentially have to be covered for medical benefits due after termination of service, or also a little over 20 million which would also have to be covered for the reserve for allowances upon termination of service, i.e. a total of about 64 million, an amount for which no provision appeared to have been made.

158. The Delegation of the United States of America supported the Secretariat's proposal to compress the timeline for submission of biennial accounts. The Delegation also supported a greater role for the Program and Budget Committee and stated that it was particularly interested in the idea of looking to other UN Agencies for examples of best practice. The Delegation stated that it felt the need to draw on mechanisms to strengthen and improve Member States' participation in the elaboration and follow up of WIPO's Program and Budget and that it looked forward to continuing these discussions.

159. The Delegation of Chile expressed its support for the statement made by the Coordinator of GRULAC and the other members of that group. Referring to the preparation of the mechanism, it said that the mechanism should be based on participation and be open to all members. It agreed to hold two informal meetings to discuss the proposals that might be made by the Secretariat and the Audit Committee. Furthermore, it said that the Committee should meet formally for the purposes adopting the mechanism, even if that were subject to

approval by the 2006 General Assembly, since this avoided a further discussion of the subject at the General Assembly.

160. The Delegation of Chile considered the schedule suggested by the Delegation of Brazil for the information that the Secretariat would pass on to members and the number of meetings to be appropriate. As to the actual content of the mechanism, it agreed with various delegations that one meeting each biennium was insufficient, for which reason it subscribed to the proposal of the Delegation of Colombia to maintain six-monthly meetings of the Program and Budget Committee.

161. The Delegation of Pakistan aligned itself with the statement made on behalf of the Asian Group by the Delegation of Thailand. The Delegation stated that the decision to look at a new mechanism for the Member States' participation taken by the General Assembly was founded on the opinion that there was a gap with regard to Member States' participation. However, the Delegation of Pakistan was of the view that there was a need for objectivity in the process that was going to be undertaken to evolve a new mechanism. The Delegation further stated that it was convinced that the general opinion was not in favor of drastically changing the mechanism as it was based on certain principles and practices which existed in other international organizations in the UN system. The only element that needed enhancement was the participation of Member States. If achieved, this would then give WIPO its rightful status as a Member State-driven organization. In that regard, the Delegation of Pakistan had reviewed the proposal that had been submitted by the Secretariat and had listened to the fresh proposals arising out of discussions. It was of the opinion that, while proposals included the need for more meetings prior to finalizing an input to the next General Assembly, it would be very useful if the information prepared for such meetings included the current mechanisms alongside the proposed mechanisms to facilitate comparison and evaluation of whether the gaps had been bridged, in particular, with respect to Member States' participation. Such a document would ensure the essential element of objectivity which was of primary concern to the Delegation of Pakistan. The Delegation was of the opinion that neither efficiency nor participation should be compromised in establishing a new mechanism. The Delegation further stated that information would be required from the Secretariat on the timelines of the different stages of the budget preparation process. Such information would assist in avoiding a situation similar to that of 2005 when, at the General Assembly there was an absolute deadline to approve the budget even in the face of certain pending issues. The Delegation was of the firm opinion that such a scenario should not repeat itself in the future and believed that agreeing on a mechanism to enhance Member States' participation, including in the proposal the elaboration of the timelines within the process, would produce satisfactory results.

162. The Delegation of Ecuador supported fully the statement made by the Coordinator of GRULAC and the countries of the region. Thus, it agreed with the Delegation of Colombia regarding an increase in the number of PBC meetings, as well as of informal consultations.

163. In summing up the discussions, the Chair stated that, in his opinion, Committee members were of the view that there was a need for reform of the budgetary process in WIPO. He further stated that the discussion that had just been completed was a starting point but not the only opportunity for the Committee to discuss the subject. The concrete proposals of the Secretariat had been positively recognized by delegations. The Chair summarized the two main questions under discussion, namely, those of frequency and the content of meetings. There was a common view that more frequent meetings were necessary but there had been no agreement on how often the Committee should actually meet. The Chair stated that his

impression was that most delegations were in favor of a yearly meeting of the Program and Budget Committee and supported the Secretariat's proposal that the Director General use the first meeting in the biennium to provide an outline of the coming biennial budget proposal which would be officially presented in the next year in order to receive early input from delegations. This first meeting would also conduct a timely review of the previous biennium as the report of the External Auditor would be available at this stage. The second meeting would thus mainly be used for in-depth discussion of the budget proposal by the Director General and could also be used to review the recommendations of the previous Program and Budget Committee with regard to the report of the implementation of the recommendations of the External Auditor or the first budget outline by the Director General. The Chair was of the opinion that the involvement of the Audit Committee in the process of reforming this budgetary process was not clear: some delegations favored the involvement of the Audit Committee as there was the belief that the Audit Committee might make some cogent suggestions. It was, however, ultimately up to the Program and Budget Committee to decide on a new mechanism and to put forward a proposal to the General Assembly. Many delegations had requested a formal meeting of the Program and Budget Committee before the General Assembly to discuss this issue. In summarizing the next steps, the Chair proposed that the Secretariat take into account the discussions during this meeting and the requests for more background information, such as a paper on best practices in the UN system, and that the Committee be provided with an opportunity to submit concrete proposals to the Secretariat on the reform of the budgetary process. He stated that it would be useful if the Secretariat prepared a background paper which included a description of the current mechanism of the budgetary process.

164. The Delegation of Brazil requested clarification on whether or not the Chair was proposing that the Committee take a decision on the process that would be followed to revise or elaborate the mechanism that the Program and Budget Committee would be submitting to the General Assembly. It further stated that a number of proposals had been made on this process by Members which, according to the Delegation, could constitute a good basis on which to go forward. It therefore wished to know if the Committee was in a position to agree on the process that would be followed in the coming months. The Delegation of Brazil proposed that the Committee agree to a process of informal consultations and that a meeting of the Program and Budget Committee possibly be held at some later point to formally endorse the outcome of the informal consultations in order to submit the proposal to the General Assembly.

165. The Delegation of Brazil further stated that it could not agree to all that the Chair had said in respect of the discussions that had transpired. It agreed that there was clearly a consensus that the current process of discussion and elaboration of the program and budget should be changed, and that there were commonalities of views in respect of various issues such as the need for more frequent Program and Budget Committee meetings. However, the Delegation disagreed that most of the members of the Committee believed that only a yearly meeting of the Program and Budget Committee would suffice. It had in fact noted that many, if not most, members of the Committee actually supported the idea of having meetings on a biannual basis. It felt that the matter could not be resolved immediately and therefore suggested that a concrete proposal for a mechanism be prepared in the coming months. That proposal should then form the basis for discussions and agreement on how the mechanism would operate in practice, including the issue of frequency of meetings.



166. The Chair stated that his intention had not been to present a complete proposal of the new budgetary process but only to summarize the main issues of the discussion to provide the Secretariat some guidance in preparing several documents.

167. The Delegation of Colombia expressed its support for the statement made by Brazil relating to the future activities of the Committee which proposed, prior to the end of the ninth session, establishing a schedule for activities which determined the number of informal consultations and a Committee meeting which would formally conclude the process to be submitted to the 2006 Assembly.

168. The Delegation of Romania stated that it was clear that the proposal that the Committee had received from the Secretariat was preliminary and therefore merited further consultations and deliberations. The Delegation suggested that an inventory of propositions that had been put forward by the Member States be prepared. This, along with the background papers that the Secretariat had been asked to provide for the purpose of further consultations, would facilitate a meaningful review of the process during the consultations of the Program and Budget Committee. The Delegation further expressed concern on the cost justification of more frequent meetings, in particular whether or not there was insufficient time for preparation on the part of the Member States. It stated that adequate time should be provided for proper study and evaluation of the proposals so that delegations came to meetings with well-defined proposals.

169. The Delegation of Argentina said that, in accordance with the General Assembly's mandate, a new mechanism should be introduced in September for approving and analyzing the following budget, and so there were currently no grounds to enter into other discussions that did not strictly fulfil the mandate in good faith. The Delegation said that it was essential to draw up a schedule, as proposed by the Delegation of Brazil, for documents to be made available and the holding of informal meetings, as had been proposed by GRULAC.

170. The Delegation of Argentina said that it had understood that the Secretariat would prepare a document containing precedents to the current existing mechanism, which would take into account the discussions, and that delegations would present new proposals. Nevertheless, it was unclear when and where the Secretariat would present those proposals. The Delegation therefore emphasized the importance of clearly establishing the context and future working documents and, in that respect, explained that although a document containing precedents to the current mechanism could be useful for the discussions, and that the proposals put forward or to be formulated by certain delegations would also be useful, a proposal also existed regarding the best practices that would serve as a tool for comparison and evaluation. The Delegation therefore said that it would be useful at the next meeting, or during informal consultations, to have that basis for debate so as to generate a substantive discussion and thus move ahead with the implementation of the mandate given by the Assembly for September 2006.

171. The Chair read out the Secretariat's proposals, as no other proposed decision had been put before the Committee: "The Program and Budget Committee is invited to express its views on a new mechanism to further involve Member States in the preparation and follow up of the Program and Budget on the basis of the issues identified in the Annex of this document." The Chair commented that the Committee had done this. He also said that he considered that the Committee had expressed its views on the process proposed in paragraphs 4 and 5 of the document and that this would be reflected in the report of this session of the Program and Budget Committee.

172. The Delegation of Argentina said that in the room, in accordance with most of the opinions put forward by delegations, be they from GRULAC or all the Latin American delegations, the process proposed in paragraph 5 had not been validated. The Delegation added that that was clear when reference was made to a process, and also from a specific paragraph in the GRULAC statement, which indicated that greater participation by the Member States was encouraged. It could not therefore be inferred from a General Assembly decision that the mechanism proposal was submitted by the Secretariat, since the General Assembly had requested that the subject in question be dealt with by the Committee so that it could analyze it and put forward a recommendation to the General Assembly. In other words, it could not be inferred from such a statement, i.e. from the General Assembly decision, that the Secretariat had been given a mandate to propose a mechanism to the following Assembly.

173. The Delegation added that the vast majority of countries had expressed an opinion and wished for a literal interpretation in good faith of that decision adopted by the General Assembly, which in turn was based on a decision by the Program and Budget Committee that had been the result of a compromise decision to allow the previous budget to be approved. The Delegation said that it did not see any disadvantage in the mechanism being set up, as requested by GRULAC and other delegations, nor had it heard anyone oppose the holding of additional meetings; it emphasized that it was unable to accept a situation where the Secretariat submitted a mechanism proposal directly to the General Assembly. That was the crucial decision which should be adopted.

174. The Chair commented that what the Delegation of Argentina had stated was quite clear and that he had also tried to cover it in his summary. He also noted that the Delegation of Argentina had expressed its views on the process proposed by the Secretariat in paragraphs 4 and 5 of the document. It was clear to all delegations—and the report would reflect—that the Delegation of Argentina did not agree with a process where only informal consultations would lead to a proposal to the General Assembly. In the absence of a new proposed decision, he concluded that members of the Committee agreed with the proposed procedure that all comments and all interventions would be reflected in the report of the session and that the Secretariat would take into account what the Committee had discussed. The Chair then invited the Secretariat to clarify its intentions.

175. The Controller stated that if so decided by the Committee, the Secretariat would be ready to convene two rounds of informal consultations and one session of the Program and Budget Committee to move the process forward and examine a new document reflecting the views that had been expressed in the current session. Indeed the Secretariat itself had regarded the current session as an opportunity for a preliminary discussion on the subject. Also, the Secretariat had already started to explore best practice in other UN organizations in this area and could share this information with Member States through such new document.

176. The Chair invited comments on the statement of the Secretariat.

177. The Delegation of Colombia said that there was currently an interpretation that was very clear to it in the sense that Committee members had the freedom to plan, take a decision and direct its future work with a view to the proposal for a new mechanism to be submitted to the 2006 Assembly. Paragraphs 4 and 5 of the document were very clear in that they were conditional on the opinions and considerations of the Member States. That was stated in the last part of paragraph 4, which provided that “based on the views expressed by Member States at this session of the PBC, detailed proposals on the said mechanism would be prepared by

the Secretariat". There, in paragraph 4, it added that there was a very clear element that made what was being discussed conditional on the decision to be taken by the Member States and paragraph 5 also undoubtedly referred to the fact that if the Member States so desired, the Secretariat could organize consultations, i.e. both paragraphs contained very clear aspects referring to the decision that the Committee would take.

178. The Delegation of Chile expressed its support for the comments made by the Delegations of Brazil and Colombia and said that the Secretariat had fortunately moved the discussion in the right direction, i.e. towards holding informal meetings. It emphasized that a formal meeting of the PBC should be held, since it was the PBC that would address the General Assembly, rather than the Secretariat, and that therefore the interpretation made by the Secretariat was correct. Paragraphs 4 and 5 simply provided an indication, offered an invitation, and were not necessarily set in stone, they were simply a suggestion by the Secretariat which moreover proposed or suggested that the members could decide to hold informal consultations. The Delegation added that it seemed logical for informal consultations to be held to analyze the documents prepared by the Secretariat, which the Audit Committee or other WIPO members might suggest, but it considered that it was completely erroneous for the Secretariat simply to gather a number of opinions from that meeting and that it would be absolutely premature for them to be sent to the General Assembly without them being analyzed by the PBC. They were very preliminary opinions, for which reason informal meetings should be held, or informal consultations, as suggested by the Secretariat. That appeared to be completely obvious and no one appeared to have opposed it. The Delegation concluded that GRULAC and other regional groups had said the same thing, and it therefore invited members to adopt the schedule suggested by Brazil.

179. The Chair again asked delegations whether the statement by the Secretariat was acceptable, or if they wished to come forward with a new proposed decision.

180. The Delegation of Mexico supported the statement made by the Secretariat and said that its regional colleagues considered that the explanation provided by the Controller had been correct. In its capacity as GRULAC coordinator, it specified that the statement made by the regional group had not gone beyond the matters under consideration. Its opinion had been expressed and it had supported the Secretariat proposal. Also, taking into consideration the penultimate line of paragraph 5, in which the Secretariat itself said that consultations could be organized, it had requested that such consultations be organized. It considered that that was not contrary to the mandate given by the Assembly and, with that in mind, it proposed that the suggestion to hold at least two informal consultations and an official session should be put in writing, and the subject be left open for the following day when its regional group would submit a written proposal.

181. The Delegation of Brazil said it felt that it was quite clear that a number of Delegations had insisted that the Committee decide on a process on the basis of proposals that had been made orally and that would include the elements that the Secretariat had mentioned in its very useful intervention. It noted that there was in fact nothing to keep the Committee from debating and agreeing to decisions that had been proposed orally. The Committee was only obliged to debate and approve written proposals if it had taken a decision to that effect. The Delegation was not aware that the Committee had taken a decision that it would only be debating and approving proposals for the decisions that had been submitted in writing under this agenda item. In its view there was no procedure preventing the Committee from agreeing on a decision. In the Delegation's view, there was a great deal of convergence, including the proposal that had been made by the Secretariat. The Delegation wished to insist that the

Committee agree to a process that would include at least two additional informal consultations and a formal meeting of the Program and Budget Committee at some later point in time but before the General Assembly, to formally approve the outcome for submission to the General Assembly.

182. The Delegation of Germany was of the opinion that the Committee should follow the proposal of the Chair. Delegations had expressed their views on the process as put forth in the proposal of the Secretariat. In the Delegation's opinion, there was no clear majority for several informal meetings and a further formal meeting of the Program and Budget Committee, and it was of the view that there was no need for a timetable. It therefore wished to see the Secretariat's proposal, as stated in the document, followed.

183. The Delegation of India reiterated that its Delegation had also called for structured consultations on the matter. It also wished to note the positive attitude of the Secretariat in this regard.

184. The Delegation of South Africa wished to support the proposal of the Delegation of Brazil as well as that of the Secretariat.

185. The Delegation of Mexico requested, for clarification purposes, the Delegation of Germany to develop further the idea of adopting the Secretariat's proposal, since it was the Secretariat itself which, in paragraph 5 of the document, proposed organizing consultations. It said that it did not understand that part, i.e. whether the Secretariat's proposal was accepted but the possibility of informal consultations also provided by the Secretariat itself was not accepted.

186. The Delegation of Chile said that it believed that two things were being confused. All the delegations, apart from one, had said that they wished to have a process designed to produce a mechanism and, in that process, a schedule to be established that would include the preparation of documents which would be sent to the delegations participating in the PBC, that there would be at least two informal meetings in which all the new proposals could be discussed and that a formal PBC meeting would be the final stage. That had nothing to do with whether two annual, six-monthly meetings, or a single PBC meeting, were held each year. That was a different subject and it was going to be discussed in the informal meetings. The Delegation emphasized that it was absolutely premature to decide whether the PBC was going to meet once, twice, three, 10 or 20 times, especially if it were hoped that the Secretariat would prepare a document on best practices in other international organizations. Once all those elements had been assembled and all those studies completed, the mechanism could be proposed. It concluded that what was being put forward and what had just been repeated and interpreted very well by the Secretariat was that there was going to be a schedule for a mechanism to be submitted to the 2006 General Assembly.

187. The Delegation of Pakistan aligned itself with the statement of the Delegation of Mexico. It wished to add that, in terms of the decision set out in paragraph 6(ii) of the document under discussion, the Committee was required to express its views on the process proposed, and in expressing those views the Committee could decide that informal consultations needed to be held. That seemed to be the spirit of the discussions of the Committee and could be reflected in the decision.

188. The Delegation of Germany asked to further clarify its intervention. In the proposal of the Secretariat, the Program and Budget Committee was invited to express its views. This

had now happened in the meeting and delegations should see how the Secretariat would take this discussion into consideration and the content of the different proposals. It could then be determined whether any other informal consultations would be necessary.

189. The Delegation of Argentina said that it did not understand how the President could say that they were reaching the end since, as with other delegations, it understood that to conclude the subject a decision had to be taken and given that, as other delegations had indicated, there appeared to be a consensus, with the exception of one delegation, for at least two further informal consultations to be held and for the PBC to have the documentation available in those informal consultations, as had been outlined by the Secretariat, that could be a process for the future. The Delegation said that there was a consensus in the room, apart from one delegation, and that it wished to know whether that delegation could join the consensus.

190. The Secretariat then read out a proposed draft decision on agenda item 6, based on its understanding of what had emerged from earlier discussions. The Chair declared the decision adopted as read by the Secretariat.

*191. The Program and Budget Committee requested the Secretariat to convene two rounds of informal consultations and a formal session of the Committee with a view to enabling the Program and Budget Committee to recommend to the 2006 session of the Assemblies a mechanism to further involve Member States in the preparation and follow up of the Program and Budget of the Organization. The Committee also requested the Secretariat to assist Member States in this process by providing additional information including on relevant best practices in the United Nations system.*

## PROGRESS REPORT ON THE NEW CONSTRUCTION PROJECT

192. The Secretariat reported to the Committee on the progress of the new construction project since the previous General Assembly. The Secretariat recalled that at its previous session the General Assembly had approved the funding of the construction of the new building by means of a bank loan and had noted document A/41/16 which defined the broad outlines of the organization of the project management. The Secretariat had worked since October to draw up the detailed charter for the project, according to the guidelines that had been approved by the General Assembly. The charter was to specify the mandates and terms of reference of each of the participants in the project management. It was clear that not only the work, but even the requisite tenders for performing the work, could be started only on the basis of a series of sufficiently precise and sufficiently clear rules. The Secretariat explained that the result of the work was presented for information to the Program and Budget Committee in the informal document entitled “Charter for the new WIPO construction project”. That series of texts showed the work that had been done to introduce a

comprehensive change in the Organization's working methods in that kind of project. Thus far, the work had been managed directly by the Secretariat. The change, recommended by the External Auditor and approved by the Member States, essentially consisted in entrusting the project administration to an outside company.

193. Annex 1 of the document showed a diagram of the project's organization. In relation to the Member States, the Secretariat had included the Audit Committee and the Program and Budget Committee, and it was understood that the Member States would be kept informed as often as necessary. For the Secretariat, the internal audit had also been inserted and a clear separation introduced between the Contracts Review Committee and the Construction Committee. The internal management team was also defined in the diagram along with the role which each of the services should play, as contained in Annex 6.

194. Annex 2 contained a tentative timetable. The timetable indicated that a first meeting of the Selection Board would be held on January 16 to examine the preselection following the call for expression of interest for the external management entity. The Selection Board would be set up on a permanent basis to examine the different stages of the tender procedures. Annex 7 contained details of the membership and rules of the Selection Board.

195. Annex 3 contained the terms of reference for the external management entity, which were presented to the Committee for information. It was clearly specified that the external management entity would administer the project and would be responsible for managing the implementation of the project as prepared by the architects and WIPO's agents. Those terms of reference were largely based on the model mandate used by the *Fondation pour les immeubles des organisations internationales* (FIPOI), a body whose experience and serious approach had been witnessed in the construction of the buildings of the international organizations in Geneva. The whole file had also been passed on to the External Auditor who had given a number of opinions that the Secretariat had taken into account in the documents that were presented for information. For its part, FIPOI had also been informed and the documents had been forwarded to it.

196. Annex 4 contained the mandate of the Construction Committee which had been specified and had already been the subject of an internal office instruction.

197. Annex 5 referred to the definition of the role played by the internal management team, which also took account of the opinions given by the External Auditor.

198. Annex 6 contained details of the role and responsibility of each of the services.

199. Annex 7 detailed the rules of the Selection Board, as proposed by the Secretariat. FIPOI would be present as an expert, would give its opinions and assessments would possibly be requested from it.

200. Finally, Annex 8 contained a document on archiving, which was an important point for monitoring and auditing purposes.

201. In conclusion, the presentation of the whole file showed the preparatory work done by the Secretariat, which was essential prior to the beginning of the launch of an invitation to tender to recruit the external administrator and subsequently hire the general contractor which could begin to undertake the work, in line with the decision taken by the General Assembly.

202. The Delegation of Switzerland, on behalf of Group B, then proposed that the Committee consider taking the following decision on the construction process: “The members of the Program and Budget Committee take note of and commend the Secretariat for its paper, entitled ‘Charter for the WIPO New Construction Project’. Recalling that in its decision establishing an Audit Committee the 2005 General Assembly had determined that one of the Audit Committee’s functions should be to oversee the new construction project, members of the Program and Budget Committee request that the Secretariat submit this document to the Audit Committee for its advice on the construction and management process before convening the first meeting of the Selection Board mentioned in Annex 7 of the paper.”

203. The Delegation explained that there were two rationales behind Group B’s proposal. The Group thanked the Secretariat for elaborating on its paper and commended it for this effort; however, since the members of the PBC were not in the construction business, the Committee was unable to express its views on the paper on such short notice. Secondly, since one of the functions of the newly established Audit Committee would be to oversee the construction project, Group B was proposing that the Audit Committee be involved in this process from the very beginning.

204. The Delegation of Serbia and Montenegro recalled that the last time the Selection Board had had more of an advisory role. This Selection Board, for the reasons just referred to by the spokesman for Group B, would play a more decisive role. The Delegation asked for additional clarification.

205. The Delegation of Canada supported Group B’s proposal and requested clarification from the Secretariat on Annex 2 in the planned Program regarding what the purpose of the first meeting of the Selection Board would be. The Delegation was of the view that it would be one thing if it was simply to introduce the group to the process and review it but that if, as it seemed from the planned Program provided in the paper received, the board would take a decision on which the financial institutions should be asked to submit tenders, that would be another. The Delegation sought clarification regarding whether or not and when the members of the Selection Board had received the information on the institutions that had expressed an interest in order to ensure that the members of the Selection Board had had sufficient time to make a considered decision.

206. In response to the questions raised by the Committee, the Secretariat explained that the Selection Board had the possibility to call on experts which it wished to attend its meetings for the purpose of giving their opinions. In any case, the Director of FIPOI would be present to give his expert opinions. The Secretariat also clarified that the first meeting of January 16 had been scheduled so that the Selection Board could preselect the companies which might be interested in playing the role of external project administrator. The Secretariat had received a number of expressions of interest, more than a dozen, from different nationalities. The Selection Board would be obliged to examine those expressions of interest so as to consider those which met the criteria allowing them to play the role of external project administrator effectively and so that they could then be sent an actual invitation to tender.

207. The Secretariat also confirmed that what was proposed was that the Selection Board might take final decisions regarding the invitations to tender and decide which company would be chosen. For that purpose, it would have available an assessment prepared by the Secretariat’s internal management team and also an independent assessment prepared, regarding the choice of external administrator, by FIPOI. In relation to the general contractor, an assessment would be prepared by the external administrator. The company that would be

selected to serve as the external administrator would also conduct a completely independent assessment so that the Selection Board had available different evaluations in order to form an objective view and be able to take decisions.

208. Speaking on behalf of Group B, the Delegation of Switzerland said that it wished to maintain its proposed decision. It noted that the documents received recently were fairly technical and that in view of the Audit Committee's function concerning the supervision of the whole of the new construction process, it believed it was useful to have the Committee's point of view on the whole process before launching it.

*209. The Program and Budget Committee took note of and commended the Secretariat for the informal document, entitled 'Charter for the WIPO New Construction Project'. Recalling that in its decision establishing an Audit Committee the 2005 General Assembly had determined that one of the Audit Committee's functions should be to oversee the new construction project, the Program and Budget Committee requested the Secretariat to submit this informal document to the Audit Committee for its advice before convening the first meeting of the Selection Board mentioned in Annex 7 of the said informal document.*

#### MEMBERSHIP OF THE AUDIT COMMITTEE

210. The *curricula vitae* of all candidates for election to the Audit Committee were distributed. The Chair expressed his wish to close the possibility for any new applications for membership in the Audit Committee if there were no objections from delegations. Since there were no objections, he then invited delegations to study the *curricula vitae*.

211. The Chair cited the paragraph of the Audit Committee Charter which states that "seven Members shall be nominated by Member States and elected by the Program and Budget Committee." He then opened the floor to Member States, Group Coordinators and observer delegations for their nominations.

212. The Delegation of Ukraine, in a spirit of compromise proposed that a decision on the composition of the Audit Committee be taken based on the following understanding. Its regional Group had put forward only one nomination to the Audit Committee. A decision on this candidature had been taken at the Group's consultations and the Coordinator of the Group would announce the decision on this candidature in due course.

213. The Delegation of Switzerland proposed two candidates on behalf of Group B: Mr. Pieter Zevenbergen from the Netherlands, member of the Board of the Netherlands Court of Audit by an Act by Parliament, appointed by the Queen. Mr. Zevenbergen had a long-standing career in public service. The second candidate, from the United Kingdom, was Geoffrey Drage, an accountant with many years of experience in the private sector and currently Head of the Audit Committee of the UK Patent Office. These were the Group's two candidates for the seven posts.



214. The Delegation of Thailand, on behalf of the Asian Group, submitted the nomination of Mr. Khalil Issa Othman from Jordan.

215. In the absence of the African Group coordinator, the Delegation of Morocco, in its capacity as former Group Coordinator, introduced the candidates from the African Group, i.e. the candidate from the Republic of Togo, Mr. Johnson Akuetey, and the candidate from the Republic of Nigeria, Mr. Akeem Babatunde Ajibola Oladele. The Delegation emphasized that the *curricula vitae* of those two candidates attested to their relevant skills and that they clearly met the required conditions.

216. The Delegation of China put forward the candidature of Mr. Gong Yalin.

217. The Czech Republic, speaking on behalf of the Central European and Baltic States, informed the meeting that it had no candidate to present.

218. The Delegation of Kyrgyzstan, speaking on behalf of the Central Asian, Caucasus and Eastern European Group, put forward a candidature from the Russian Federation, Mr. Igor N. Shcherbak.

*219. The members of the Audit Committee were elected as follows: Mr. Gong Yalin (China); Mr. Khalil Issa Othman (Jordan); Mr. Pieter Zevenbergen (Netherlands); Mr. Akeem Babatunde Ajibola Oladele (Nigeria); Mr. Igor N. Shcherbak (Russian Federation); Mr. Johnson Akuetey (Togo); and, Mr. Geoffrey Drage (United Kingdom).*

220. Following the adoption of the above decision, the Secretariat clarified that the two remaining openings on the Audit Committee would be elected by the seven newly-elected members of that committee and asked that *curricula vitae* for these two additional posts be distributed to the Committee for information purposes. It then asked the Chair to forward these candidatures to the newly elected members of the Audit Committee.

221. The Delegation of Switzerland asked for clarification of the mechanism by which the Audit Committee would be convened and who would be responsible for the draft agenda of that Committee.

222. The Delegation of Morocco requested clarification as to whether or not the deadline for the submission for these two seats was already closed and stated its understanding that there would be no other candidatures.

223. The Legal Counsel expressed the view that it should be up to the seven newly elected members of the Audit Committee to determine if they would maintain only the two nominations received so far or if they would consider additional nominations.

224. In reply to a question by the Chair, the Secretariat stated that the Internal Audit and Oversight Division would provide support services to the work of the Audit Committee. Accordingly, invitations would be sent to the seven newly elected members of the Committee to convene a preliminary meeting of these seven members to enable them (i) to decide

whether they would prefer to have a roster of candidates from which the two additional members would be selected or (ii) to select the two additional members of the Audit Committee from the two nominations in hand. The Secretariat would make every effort to organize such a preliminary meeting within two weeks' time, but that would depend on the availability of the seven newly elected Members of the Audit Committee. If they were available, this preliminary meeting could take place by the last week of January.

225. In response to a query from the Delegation of Thailand, the Secretariat stated that the Selection Board meeting originally scheduled for January 16, 2006, would be cancelled and a new meeting convened after the Audit Committee had had a chance to hold its first meeting.

#### OTHER MATTERS

226. In relation to the point on the Audit Committee, the Delegation of Morocco requested clarification regarding the nature of the relationship and the interaction between the Audit Committee which had just been established and the External Auditor.

227. The Secretariat indicated that the Terms of Reference of the Audit Committee included a specific reference to the fact that the Controller, the external and internal auditors, or any other person, may attend, upon request, Audit Committee meetings. The Committee, in accordance with paragraph 2(b)(i) of its Terms of Reference, would also agree and approve the audit plans of both the internal and external auditors.

228. While expressing its thanks for the clarifications provided, the Delegation of Morocco asked for greater clarification of the statement by the External Auditor at the General Assemblies, as indicated in the General Report, paragraph 223, where it was said that if the Member States wished to have audits going beyond the current work of the External Auditor, i.e. financial and special audits, as had been the case for information technology and buildings, possibilities would certainly be available and the External Auditor would not charge the Organization for his services and would therefore work free of charge.

229. The Delegation of Switzerland raised concerns similar to those expressed by the Delegation of Morocco. Having had brief discussions with the External Auditor, the Delegation confirmed that the External Auditor was indeed ready to engage in dialogue with the Audit Committee: however, because his established mandate was strict and his resources not unlimited, he would reiterate his concerns when he submitted his audit plan for approval. He was, of course, most willing to collaborate and engage in constructive dialogue with the Audit Committee.

230. In response to the question from the Delegation of Morocco, the Secretariat clarified that the external auditors of various other UN system organizations usually charged fees for their work. In WIPO's case, the External Auditor did not charge fees even if, as it had already occurred in the past, Member States requested him to undertake specific audits or evaluations outside his normal work plan.

CLOSING OF THE SESSION

231. The Chair thanked all delegations for their cooperation and spirit of compromise and closed the session.

[Annexes follow]