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ASSEMBLIES OF THE MEMBER STATES OF WIPO

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**FOLLOW UP OF THE JOINT INSPECTION UNIT'S RECOMMENDATIONS
AS CONTAINED IN ITS REPORT "REVIEW OF MANAGEMENT AND
ADMINISTRATION IN WIPO: BUDGET, OVERSIGHT AND RELATED ISSUES"
(JIU/REP/2005/1)**

Document prepared by the Secretariat

I. INTRODUCTION AND BACKGROUND

1. The Joint Inspection Unit (JIU) transmitted its report entitled "Review of Management and Administration in WIPO: Budget, Oversight and Related Issues" (JIU/REP/2005/1) by letter of Inspector Wynes to the Director General on February 10, 2005. At the informal session of the WIPO Program and Budget Committee, which was held from February 16 to 18, 2005, the report was made available to the Member States, together with an informal note containing WIPO's preliminary comments thereon. The JIU was invited to present its report at that informal session but declined the invitation in order to allow the Member States time to review the report. Subsequently, the JIU was formally invited to present its report to the Program and Budget Committee at its eighth session, held from April 27 to 29, 2005. WIPO's Preliminary Comments on JIU/REP/2005/1 were also formally distributed at that session of the Committee (document WO/PBC/8/INF/2). The record of the JIU presentation to the Program and Budget Committee is included in the report of that meeting (see documents A/41/5 and WO/PBC/8/5, paragraphs 24 to 26).

2. At its eighth session, the Program and Budget Committee adopted the following decision with respect to the JIU report (see documents A/41/5 and WO/PBC/8/5, paragraph 174, subparagraph 2):

“The Program and Budget Committee welcomes the work of the JIU and recommends that the Secretariat:

“(a) report to the General Assembly in September 2005, on the implementation, in consultation with Member States, of the recommendations of the JIU addressed to the Director General (Recommendations 1, 3, 6, 9, 10 and 12); and

“(b) transmit the other recommendations of the JIU, which need to be addressed to the competent bodies of WIPO (Recommendations 2, 4, 5, 7, 8 and 11), also at the 2005 session of the Assemblies of Member States, for those bodies to act upon them.”

3. This document responds to the Committee’s decision as follows: Part II provides a report on the implementation of the JIU recommendations addressed to the Director General (see subparagraph (a), above: Recommendations 1, 3, 6, 9, 10 and 12); Part III provides further information and proposes decisions regarding the JIU recommendations addressed to the competent bodies of WIPO (subparagraph (b), above: Recommendations 2, 4, 5, 7, 8 and 11).

4. This document should be read in conjunction with the JIU’s “Review of Management and Administration in WIPO: Budget, Oversight and Related Issues” (JIU/REP/2005/1) (see Annex I of the present document) and with the Secretariat’s comments, as found in Annex II of this document.

II. REPORT ON THE IMPLEMENTATION OF THE JIURECOMMENDATIONS ADDRESSED TO THE DIRECTOR GENERAL

JIU Recommendation 1:

“The Director General should hire independent external expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the Organization in accordance with para. 3 above.”

5. The Secretariat welcomes the JIU’s recommendation to hire independent external expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the Organization and is pleased to confirm that financial resources to cover the estimated cost of the exercise have been included in the Revised Budget for 2004/05 and in the Proposed Program and Budget for 2006/07 (see Publication 360E/PB0607, Part VIII and Program 23 (Budget Control and Resource Management)). The Secretariat has also started internal preparations for this exercise and, should the Member States so desire, is ready to launch a tender to select the commercial firm to conduct the assessment immediately after the Assemblies. The proposed Terms of Reference of the proposed WIPO Audit Committee (see document A/41/10, Annex II, paragraph 2) include overseeing the needs assessment exercise. The Secretariat has started informal consultations with Member States to ascertain whether and, if so, to what extent, the needs assessment exercise could be started before the proposed Audit Committee is formally established.

JIU Recommendation 3:

“The Director General is urged to complete on an urgent basis consultations with other relevant organizations, *inter alia*, the European Patent Office and submit to the General Assembly a proposed methodology to determine the cost of processing PCT applications.”

6. The Director General welcomes the JIU’s recommendation and is pleased to report that, prior to the issuance of the JIU recommendation, the Secretariat had already arranged for and carried out consultations with the European Patent Office on a system for gauging performance measurement and determining the cost of processing applications. The Secretariat has made progress in elaborating this system and has also put into place preliminary internal performance indicators to measure timeliness and workload issues. The Secretariat has shared some provisional findings with respect to performance measurement with delegates attending recent sessions of the Working Group on Reform of the PCT and Meeting of International Authorities. It will continue to develop its measurement indicators with the objective of complying fully with the JIU recommendation.

JIU Recommendation 6:

“The Director General should look into the feasibility of establishing a mechanism to allow fees to be paid through an on-line basis to an established WIPO account.”

7. Currently, PCT applicants who file their applications with the Receiving Office at the International Bureau of WIPO (RO/IB) may pay filing fees by means of deposit accounts in Swiss francs that they establish at WIPO. In addition, the Secretariat intends shortly to put into place a system that would permit applicants who file their applications electronically with the RO/IB to pay filing fees in Swiss francs by credit card. With respect to the very large number of applicants who file their applications with Receiving Offices other than the RO/IB and who therefore make fee payments to those other Receiving Offices, please see the Secretariat’s response to JIU Recommendation 5 (paragraphs 18 and 19, below).

JIU Recommendation 9:

“The Director General should direct that:

- “a. Employment of any contractual form be frozen at current levels until the headquarters review is completed;
- “b. The transfer of positions with posts be discontinued;
- “c. Any reclassifications of Professional level posts and General Service to Professional level posts be approved via the budget process, not after implementation;
- “d. The practice of personal promotions be discontinued;

- “e. A comprehensive human resources strategy be established in one properly sanctioned document, which focuses on the identification, development, and appraisal of the human resources needed to meet the priorities of the Organization. This should include, in particular, policies on career development, gender balance, geographical distribution and administration of justice; and
- “f. Report back, through the Coordination Committee, to the General Assembly at its next session, on the implementation of these measures.”

8. Concerning Recommendation 9a, the Secretariat is pleased to confirm that, as of January 1, 2005, recruitment of all contractual forms has been frozen. The limited exceptions made in the period are due to stringent operational needs and are largely compensated by a reduction in headcount of 1,297 on December 31, 2004, to 1,260 as of July 31, 2005.

9. Concerning Recommendation 9b, the Secretariat is of the view that the outcome of the desk-to-desk needs assessment may require a number of adjustments in the allocation of human resources within the Organization and, therefore, possibly, of its post structure. Once this has been done, the Secretariat will formally adopt a new policy, limiting the possibility of post transfers only to transfers within the same operational unit. This should enable strict compliance with the budgetary post structure approved by Member States while at the same time preserving a minimum amount of operational flexibility. Pending the conclusion of the desk-to-desk assessment, the Office of the Controller and the Human Resources Management Department are ensuring that, when staff need to be transferred from one operational unit to another, this is done to the maximum extent possible through an exchange of posts.

10. As regards Recommendation 9c, the attention of Member States is drawn to paragraphs 16, 55 and 62 of the Proposed Program and Budget for 2006/07 (see Publication No. 360E/PB0607). The Secretariat is committed to ensuring that, in 2006/07, reclassifications and/or promotions are within the approved budgetary ceiling for personnel expenditures.

11. Recommendation 9d refers to personal promotions. The Secretariat recalls that the practice of personal promotions was originally introduced in 1986 after the Coordination Committee was informed of this at its 19th session, held in 1985. The rationale behind the introduction of such practice had been to enable rewarding deserving staff who have reached the maximum in-grade step and have 10 years in that same grade. Following the reception of the JIU report in February 2005, no personal promotions have been granted. However, the Secretariat is of the view that there may be instances in which personal promotions may be an effective management tool. The Secretariat agrees that such practice should be strictly limited and that its financial impact, if any, should be contained within the approved budget for personnel expenditures. In this sense, the Secretariat is not favorable to formally discontinuing such practice. The Secretariat is in the process of developing a new comprehensive policy on personal promotions in line with other UN common system organizations, in particular, to exclude personal promotions from the Professional to the Special category.

12. As regards Recommendation 9e, the Secretariat is pleased to report that the Human Resources Management Department has embarked on a comprehensive reassessment of the full range of WIPO human resources policies and practices (including career development, gender balance, geographical distribution and administration of justice) with a view to

consolidating them into a single human resources strategy document. This exercise also requires an analysis of the likely requirements of the Organization in the medium- and long-term. The Secretariat welcomes the desk-to-desk assessment exercise as a source of additional information and orientation for this analysis. In 2006, the Secretariat will make available to Member States a human resources management strategy document resulting from the outcome of its own analysis and the result of the desk-to-desk assessment.

JIU Recommendation 10:

“The Director General should suspend the current practice of direct recruitment and identify and submit to the General Assembly through the Coordination Committee appropriate contractual modalities that would meet the purpose of Staff Regulation 4.8(b) while preserving the competitive nature of the recruitment process.”

13. There has been no direct recruitment at WIPO as of August 2004. As part of the overall review of human resources policies and practices referred to in paragraph 12, above, the Secretariat will elaborate alternative contractual modalities to meet urgent operational needs, while preserving the competitive nature of the recruitment process, also taking into account the ongoing review by the International Civil Service Commission (ICSC) of contractual arrangements within the UN common system. Pending this, the practice of direct recruitment will continue to be suspended.

JIU Recommendation 12:

“The Director General should ensure that the Internal Audit and Oversight Division:

- “a. Expands and fine tunes an Oversight Charter for approval by the Member States;
- “b. Elaborates audit and evaluation plans based on risks and opportunities for the Organization;
- “c. Establishes a follow-up system to ensure compliance by managers with oversight recommendations; and
- “d. Reports back to the General Assembly at its forthcoming session on all the measures taken.”

14. The informal session of the open-ended Working Group of the Program and Budget Committee, convened on July 14 and 15, 2005, reviewed a draft WIPO Internal Audit Charter and recommended it to the WIPO General Assembly for approval. As shown in document A/41/11, the proposed Charter fully addresses the issues contained in this recommendation, including audit and evaluation plans and a follow-up system.

III. INFORMATION AND DECISIONS REQUIRED REGARDING THE JIU RECOMMENDATIONS ADDRESSED TO THE COMPETENT BODIES OF WIPO

JIU Recommendation 2:

“The General Assembly should approve an initial 2006-2007 budget at the revised 2004-2005 budget level, pending the outcome of the needs assessment. Any revision to the budget based on the needs assessment could be presented for approval to the Extraordinary Session of the General Assembly in September 2006.”

15. In April 2005, the Secretariat submitted to the eighth session of the Program and Budget Committee a Proposed Program and Budget for 2006/07 which fully reflected the recommendations of the JIU, while at the same time allowing a minimal degree of flexibility for WIPO to respond to projected increases in registration systems activities (see Part III of Publication No. 360E/PB0607). The Program and Budget Committee supported this approach and recommended the Proposed Program and Budget for 2006/07 to the General Assembly for approval (see documents A/41/5 and WO/PBC/8/5, paragraph 174, subparagraph 1).

JIU Recommendation 4:

“The General Assembly should limit transfers between programmes to five per cent of the smaller amount of the two biennial appropriations of the programmes concerned.”

16. The Secretariat draws the attention of the Member States to the fact that JIU Recommendation 4 refers to the interpretation of WIPO Financial Regulation 4, which reads:

“... the Director General may make transfers from one heading of the budget to another for any given financial period up to a limit of 5% (five per cent) of the total funds credited for that period, when such transfers are necessary to ensure the proper functioning of the services.”

17. The issue is whether this Regulation should be interpreted as to enable redeployment of up to five per cent of the total budget of WIPO to one or more programs, or more restrictively. In so far as this Recommendation touches on an interpretation of a Financial Regulation, it is the view of the Secretariat that it should be submitted for consideration to the Program and Budget Committee. The General Assembly may therefore wish to submit it to the next session of the said Committee.

JIU Recommendation 5:

“The PCT Assembly should consider taking the necessary steps to:

- “a. Have users of WIPO services pay fees for services rendered in Swiss francs, the currency in which the budget is denominated and most expenditures incurred; and
- “b. Have PCT fees paid directly to the IB at the time of filing the application with the national receiving office and not at the time of its transmittal to the IB by the national receiving office.”

18. The Secretariat is of the view that JIU Recommendation 5 raises a number of questions that need further examination. In particular, the Secretariat would wish to highlight the following issues that may require further study:

- (i) Whether and, if so, to what extent, the Treaty and Regulations support the changes to the PCT system recommended by the JIU.
- (ii) What percentage of the International Bureau’s income is at risk in a typical year due to exchange rate fluctuations under the existing system?
- (iii) Whether it would be desirable from the perspective of national industrial property Offices and PCT applicants to change the PCT system fundamentally as suggested by the Recommendation, and if so, how could such change be undertaken?
- (iv) What would be the alternative means of improving the existing fee payment and fee adjustment systems, in particular from the legal and practical viewpoints, without fundamentally changing the system?
- (v) What would be the effects on PCT applicants’ and agents’ behavior of both types of scenarios outlined under items (iii) and (iv), above?
- (vi) What would be the effects on the efficiency of processes within national industrial property Offices and the International Bureau of both types of scenarios outlined under items (iii) and (iv), above?

19. In view of the above, the Secretariat proposes that it carry out a detailed study of the matter and present a report to the PCT Assembly at its ordinary 2006 session.

JIU Recommendation 7:

“The General Assembly is invited to institutionalize the decision of the current Director General not to accept extra remuneration for his duties in relation to UPOV, as provided for in the relevant WIPO/UPOV Agreement. In the future, the Director General should not receive any extra remuneration for additional tasks that may be entrusted to the post.”

20. The Secretariat brings to the attention of Member States the fact that the issue of remuneration related to the Director General's duties as Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV) falls not only within the competence of WIPO, but also within the competence of UPOV. The remuneration of the UPOV Secretary-General is dealt with in the UPOV Convention and the WIPO-UPOV Agreement. UPOV is not part of the United Nations system. The recommendation of the JIU will therefore first be referred to the UPOV Administrative Council for consideration.

JIU Recommendation 8:

“The Coordination Committee should allow the Director General to recruit and promote against approved posts at the D-level without seeking their advice.”

21. In accordance with the present wording of Staff Regulation 4.8(a), these staff members shall be appointed by the Director General; however, appointments to posts in the Special and Higher categories shall be made taking into account the advice of the Coordination Committee. The Secretariat welcomes the recommendation of the JIU in that Staff Regulation 4.8(a) may indeed, in certain instances, limit the Director General's effective running and management of the International Bureau. Furthermore, it is not in line with the provisions for recruitment of staff to posts at this level in the majority of the United Nations common system organizations. On the other hand, the Secretariat recognizes that appointments to D1-level should be made in strict compliance with availability, in the relevant budget, of posts at that level.

22. In conclusion, the Secretariat proposes, through this document, that the Coordination Committee may wish to adopt the following decision: (i) to amend Regulation 4.8(a) in order to reflect that in future the advice of the Coordination Committee will be required only for appointment to the Higher category (Assistant Directors General and Deputy Directors General); and (ii) to decide that appointments and/or promotions to D1-level will not require the advice of the Coordination Committee, but will be subject to availability of posts in the Special category in the approved budget.

JIU Recommendation 11:

“The General Assembly should take steps to strengthen the effectiveness and independence of oversight at WIPO by:

- “a. Requesting the External Auditor to review and submit for its consideration his/her terms of engagement with a view to bringing them in line with best practices of other United Nations organizations;
- “b. Requesting the Director General to submit concrete proposals with a view to creating a D-level post and determining the qualifications required for the head of the Internal Audit and Oversight Division; and
- “c. Enhancing the staffing of the Division with the necessary professionals qualified to carry out its mandate.”

23. The Secretariat is pleased to report that, in the period since the reception of the JIU report, the internal oversight function of WIPO has been strengthened through the preparation, by the Secretariat, of a draft Internal Audit Charter, and its review by the Working Group of the Program and Budget Committee. As stated in paragraph 14, above, the Working Group has agreed on a revised text which is being submitted to the General Assembly for its approval (see document A/41/11). The Secretariat has also reinforced the staffing of the Internal Audit and Oversight Division by reallocating a vacant post to recruit a P4-level Audit Officer and will also launch an international competition for an Investigator to join the Division. These initiatives fully meet the recommendation of the JIU. Concerning, in particular, Recommendation 11b, attention is drawn to the fact that, in recommending a draft Internal Audit Charter, the Working Group also identified the desired profile and level of the WIPO Internal Auditor. Also, subject to the approval of the General Assembly, a vacant D1-level post will be reallocated for the function of the WIPO Internal Auditor and head of the Internal Audit and Oversight Division.

24. It is also noted that at its May 23 to 25, 2005, informal session, the Working Group of the Program and Budget Committee agreed on a Proposal on the Establishment of a WIPO Audit Committee (see document A/41/10) and recommended it to the WIPO General Assembly for approval. This proposal would further ensure the effectiveness and independence of oversight at WIPO.

25. As finally concerns Recommendation 11a, it is recalled that the mandate of the External Auditor is defined in the WIPO Financial Regulations (in an Annex entitled “Terms of Reference Governing Audit”), and that the Program and Budget Committee is the competent body to examine any proposed amendment to the Financial Regulations. In light of the above, the General Assembly may wish to transmit JIU Recommendation 11a to the next session of the Program and Budget Committee for consideration.

26. The General Assembly is invited to take note of the information contained in the present document.

27. The PCT Assembly is invited to approve the proposed study described in paragraph 19, above.

28. The Coordination Committee is invited to approve the proposal contained in paragraph 22 of the present document.

29. The General Assembly is also invited to consider whether it may wish to transmit to the next session of the Program and Budget Committee, for consideration, JIU Recommendations 4 and 11a.

[Annexes follow]

**Review of Management and Administration in WIPO:
Budget, Oversight and Related Issues**

Prepared by

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United Nations

Introduction

1. On the basis of a decision taken by the Joint Inspection Unit (JIU) and as part of its Management and Administration series, the Unit has prepared an abbreviated review of the management and administration of World Intellectual Property Organization (WIPO). This report, prepared for the consideration of the February 2005 informal session and the April 2005 formal session of the Program and Budget Committee (PBC), focuses on headquarters review, budget and financial issues, personnel practices, oversight and the proposed new WIPO building. The second part of this report will be presented at a later date.

Headquarters review

2. The main finding of the Inspectors is that WIPO faces problems today because of the way the budget has been approached in the past, that is, adjusting the fees to secure income to finance existing and projected levels of expenditures, rather than on a detailed human and financial resources needs assessment, which itself would be based on the deliverables that each unit in WIPO must produce to assist the organization in discharging its various mandates.

3. Therefore, the Inspectors believe a headquarters review and needs assessment should be undertaken urgently to rationalize existing processes and systems. Overall, the review should be designed to strengthen the Organization and address how WIPO can best position itself to deal with the short and longer-term challenges it faces. The assessment should include a desk-to-desk review of positions and functions, and a review of expenditure and income requirements. Currently, there are no comprehensive Information Technology (IT) or Human Resources strategies. In general, more can be done to automate basic administrative processes; there are duplications of functions in the IT and administrative areas, e.g., translation services, the archive functions. While there are differences required by the various Treaties in terms of confidentiality and others, this does not mean that consolidations cannot take place. Based on various interviews carried out by the Inspectors, the proposed headquarters review and desk-to-desk analysis could lead to savings in the budget requirements for 2006-2007. In order to expedite the process, independent external expertise should be selected through an international bidding process, based on detailed terms of reference, to conduct a wide-ranging human and financial resources review. The review should be funded from within existing resources and be completed as soon as possible.

4. Because of timing concerns and decisions that will result from General Assembly consideration of such a study, the Inspectors recommend that the 2006-2007 budget should be approved at the same level as the revised 2004-2005 budget, in the forthcoming September session. Once the needs assessment is finalized, and on the basis of its results, a revised 2006-2007 budget could be approved.

Recommendation 1:

The Director General should hire independent external expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the Organization in accordance with para. 3 above.

Recommendation 2:

The General Assembly should approve an initial 2006-2007 budget at the revised 2004-2005 budget level, pending the outcome of the needs assessment. Any revision to the budget based on the needs assessment could be presented for approval to the Extraordinary Session of the General Assembly in September 2006.

The Budget and Financial Issues

5. For many years WIPO enjoyed a healthy financial situation with income growing significantly due to the high numbers of applications received under the Patent Cooperation Treaty (PCT) system.¹ Unused resources accumulated in the reserve reached a peak of 353 million Swiss francs² in 1998. As a result, the General Assembly in 1998 reduced PCT fees and approved using the reserve for the construction of new premises.³ Simultaneously, the Member States agreed to draw down the reserve to bring it to a more acceptable level by allowing budgetary deficits.

6. Since 1998, with the lowering of PCT fees, a number of converging issues have led to a gap between the projected and actual income of WIPO. The situation worsened in 2002-2003 with the number of actual and projected PCT filings less than estimated and the problem continued into 2004-2005.⁴ In September 2004, the Director General requested approval to raise the PCT fees as of January 2005 to remedy the problem. Member States requested the Secretariat to convene a session of the PBC as early as possible in order to analyse, inter alia, any readjustment of PCT fees.⁵ The latest 2004-2005 estimates project a gap between expenditure and income of 23 million Swiss francs and provide for drawing down the reserve to a level slightly less than the agreed 18 per cent of the overall budget.⁶

7. While realizing the need to bring the reserve down to an acceptable level, the Inspectors are concerned about deficit spending. In the opinion of the Inspectors, recourse to the reserve should only be made for emergency purposes. The Inspectors believe that there is room for further economies that will reduce the deficit (to less than the proposed 23 million Swiss francs) and recommend the reserve not be drawn down before September 2005. At that time, the financial picture will be much clearer with only three months left in the biennium and Member States could authorize its use if necessary then.

8. The Secretariat notes two developments in 2004 that resulted in a slight increase in income and decrease in expenditures from the September 2004 estimates: a major national receiving office cleared and transmitted a backlog of PCT applications and associated fees to the International Bureau (IB), and there was an overall reduction in operational costs due to a concerted and conscious effort by the Director General to pursue budget discipline and cut costs which is to be commended and should be continued.

¹ WIPO Revised draft program and budget 2002-2003, WO/PBC/4/2, 30 June 2001, para.485

² Ibid, Table 27, para.484

³ WIPO Report of the International Patent Cooperation Union Assembly, PCT/A/XXIV/IO, 1 October 1997, Annex III, p.39, and WIPO General Assembly, "Premises: the new construction", WO/GA/27/4, 21 September 2001, Attachment, para. 1 (e)

⁴ WIPO Program performance report for the 2002-2003 biennium, A/40/2, 23 July 2004, para.8

⁵ WIPO Program and budget committee, "Options concerning the new construction", WO/PBC/IM/05/2, 10 January 2005

⁶ Ibid, footnote 1

Budget, Income and Reserves⁷
(thousands of Swiss francs)

	Revised 1998-1999	Initial 2000-2001	Revised 2000-2001	Initial 2002-2003	Revised 2002-2003	Initial 2004-2005	Estimates 2004-2005 (Dec 04)
Budget	378,939	525,205	565,868	678,400	668,800	638,800	528,200
Income	391,814	428,584	526,045	531,782	497,425	588,150	505,200
Surplus/ (deficit)	12,875	(96,621)	(39,823)	(146,618)	(171,375)	(50,650)	(23,000)
Reserve	302,011*	205,390	262,198	115,580	93,051	42,401	92,500

* Actual figure

Income Projection PCT

9. Since PCT represents three quarters of income, getting its projection right is essential to effective programme planning and delivery. WIPO sought to address this as of June 2004 by developing a methodology to estimate income and demand. The model is being tested for reliability; the Inspectors consider the model rational but recognize that fine tuning will be necessary as the system is implemented. However, WIPO has not developed a methodology to determine the cost of processing PCT applications and will be consulting in the near future with a number of organizations, *inter alia*, the European Patent Office, with a view to developing such a cost methodology as well as improved productivity indicators.

Recommendation 3:

The Director General is urged to complete on an urgent basis consultations with other relevant organizations, inter alia, the European Patent Office and submit to the General Assembly a proposed methodology to determine the cost of processing PCT applications.

Resource Transfers

10. WIPO Financial Regulations provide that the "Director General may make transfers from one heading of the budget to another for any given financial period up to a limit of five per cent of the total credited for that period, when such transfers are necessary to ensure the proper functioning of the services".⁸ The Inspectors were informed that with the introduction of programme budgeting, this rule was interpreted to mean that WIPO had the flexibility to redeploy up to five per cent of total budget to one or more programmes. The Inspectors believe this interpretation is too broad and could render the priorities and the programme budgeting concept meaningless.

Recommendation 4:

The General Assembly should limit transfers between programmes to five per cent of the smaller amount of the two biennial appropriations of the programmes concerned.

⁷ WIPO Revised proposal for program and budget 2004-2005, WO/PBC/7/2, 31 July 2003, p. 8

⁸ WIPO Financial Regulations, Rule 4.

Effect of Exchange Rates and Delays in Transferring pct Fees to WIPO

11. The budget of WIPO is denominated in Swiss francs but PCT and other fees are paid in other currencies. Currently national receiving offices receive two payments when an application is filed: one for services rendered by the national receiving office and the other for services to be provided by the IB. While national receiving offices are to transmit all applications to the IB promptly,⁹ some experience significant delays for various reasons. As a result, WIPO income decreases when the national receiving offices accumulate a backlog of applications and increases when the backlog is cleared. This introduces a major element of unpredictability in the receipt of income that affects planning and programme delivery. Moreover, significant exchange rate fluctuations can occur between the time when applications are filed with national receiving offices and the IB receives the corresponding fees. While WIPO has a mechanism to deal with exchange rate fluctuations¹⁰, it is quite complicated and inadequate to deal with major fluctuations and time delays. WIPO should look into a mechanism whereby fees could be paid on-line to an established WIPO account with a copy of the payment forwarded to the national receiving office.

Recommendation 5:

The PCT Assembly should consider taking the necessary steps to:

- a. Have users of WIPO services pay fees for services rendered in Swiss francs, the currency in which the budget is denominated and most expenditures incurred; and**
- b. Have PCT fees paid directly to the IB at the time of filing the application with the national receiving office and not at the time of its transmittal to the IB by the national receiving office.**

Recommendation 6:

The Director General should look into the feasibility of establishing a mechanism to allow fees to be paid through an on-line basis to an established WIPO account.

The Salary of the Director General

12. The JIU commends the Director General for his decision not to accept a salary for his duties with the International Union for the Protection of New Varieties of Plants (UPOV).¹¹ In the Inspectors' view, this personal decision ensures that the salary of the Director General is commensurate with his peers in the United Nations system.

⁹ WIPO, Regulations Under the PCT, Rule 22.1

¹⁰ WIPO Report of the International Patent Cooperation Union Assembly, PCT/A/XXIV/10, 1 October 1997, Annex IV

¹¹ WIPO/UPOV Agreement, UPOV/INF/8, 26 November 1982, Article 4 (1) and 4 (5)

Recommendation 7:

The General Assembly is invited to institutionalize the decision of the current Director General not to accept extra remuneration for his duties in relation to UPOV, as provided for in the relevant WIPO/UPOV Agreement. In the future, the Director General should not receive any extra remuneration for additional tasks that may be entrusted to the post.

Personnel Practices

13. The Inspectors note the absence of a comprehensive human resources strategy and, while recognizing the specificities of WIPO and its various Treaties, are concerned with a number of long outstanding recruitment and promotion practices. Among the areas of concern are: the steady increase in staff, the significant number of short-term staff and consultants (and their longevity in many cases), and the practices of transferring staff with their posts, reclassifying posts, direct recruitment and personal promotions.

14. Between 1997 and 2002, approved posts increased by over 50 per cent. In addition, another 24 per cent of the total workforce was hired as consultants or on short-term contracts, which is of concern to the Inspectors. While realizing there was an increase in workload, the Inspectors could not ascertain whether the increase was proportional to the increase in staff. The proposed needs assessment referred to in para. 3 should determine whether this is so.

Short-term Staff and Consultants

15. The number of short-term staff and consultants increased from approximately 16 and 4 per cent respectively in 1997, to approximately 24 and 6 per cent respectively in 2003. A minor decrease occurred in 2004, to 22 and 5 per cent respectively. At the end of 2004 most consultants and short-term staff were from developed countries. The Inspectors were informed that many of the short-term staff and consultants have had their contracts renewed year after year with some on the payroll for more than seven years. Strict guidelines should be established similar to those of the United Nations.¹²

Transfers and reclassifications of posts

16. The Inspectors are concerned with the practice in WIPO whereby staff are transferred with their posts from programme to programme of the Organization. As a result, an office not only loses the staff member, but also cannot recruit a replacement, as there is no vacant post. The impact on the releasing office can be significant particularly if it is a highly technical or specialized unit. At the same time, the receiving office may become overstaffed. This practice should be discontinued, as it distorts the purpose of staffing tables as well as the priorities of the Organization.

¹² The United Nations General Assembly adopted resolution 53/221, of 7 April 1999, and the Secretary-General implemented, through Administrative Instruction ST/AI/1999/7, that consultants and individual contractors should be highly qualified, and preferably from a roster of candidates; perform assignments of a temporary nature clearly related to the activities in the work programme; and undertake tasks capable of being completed in a specified limited period which due to their complexity cannot be met by existing staff (see also JIU/REP/2000/2, entitled "The use of consultants in the United Nations").

17. The Inspectors were informed that 202 posts, or some 20 per cent of the approved posts, were reclassified in the 2002-2003 biennium (including some General Service posts reclassified to professional posts), with the incumbents being promoted into the reclassified job. These "reclassifications" were not approved by Member States who were simply notified of this in the budget document for the subsequent biennium. This practice skews the notion of approved staffing tables and represents backdoor promotions and should be discontinued. Approval for reclassifications of Professional posts, and General Service to Professional posts, should be sought from Member States via the budget process before the fact. All reclassifications should be done in accordance with the guidelines of the International Civil Service Commission (ICSC).

Direct Recruitment

18. The practice of direct recruitment at WIPO began in 1976. Staff Regulation 4.8 (b) provides, inter alia, "... when certain services in the Professional category are urgently required for a limited period – particularly for current projects – the Director General may proceed by direct recruitment, without having recourse to a competition. Staff members recruited according to the latter procedure shall be granted fixed-term appointments not exceeding three years, which shall not be extended or converted to a permanent appointment." The Inspectors were informed that WIPO's interpretation of the rule is that individuals hired via direct recruitment may compete for vacancies in WIPO and that over the last three years, 99 per cent of direct hires were confirmed into regular posts. During , the biennium 2002-2003, 43 per cent (38 out of a total of 88) of the Professional staff recruited were direct hires. This two-step process circumvents competition and equitable geographical representation and should be discontinued. While recognizing that in exceptional cases there may be a need to hire someone expeditiously, the Inspectors believe that other existing contractual modalities can be used to address these needs.

Personal Promotions

19. WIPO introduced the practice of personal promotions following a 1984 recommendation of ICSC.¹³ At the XIX session of the Coordination Committee in 1986, it was noted that "...the Director General would follow the practice of other Geneva-based organizations by the introduction of a system of personal promotions which would provide the necessary flexibility at his discretion to reward a limited number of worthy staff members." Guidelines formulated by WIPO¹⁴ provide criteria for promotion on merit that fit broadly into the exceptional situations outlined by the ICSC.¹⁵ However, in practice the purpose of the personal promotion scheme has been significantly eroded; it is almost exclusively based on seniority and does not conform to the 1984 criteria set by ICSC. The current practice at WIPO is that staff members who have been at their post for 10 years may receive a personal promotion without the need to demonstrate exceptional performance. Even the 10-year rule is flexible with some staff members receiving personal promotions before completing 10 years, and others just prior to retirement. In 2004 there were 45 staff members

¹³ International Civil Service Commission, A/39/30, 1984, para. 222

¹⁴ [Revised] Guidelines on promotion of staff, WIPO, March 2004

¹⁵ International Civil Service Commission, A/39/30, 1984, para. 222

on personal grades; 23 or more than half were at the D-1 level; 7 at the P level and 15 at the OS levels. The 23 D-1 s account for 45 per cent of the Director posts at WIPO. One official noted that some staff now view the practice as an acquired right.

20. In 1994 ICSC stated that it had earlier "reaffirmed the possible use of personal promotions in certain specific circumstances. It did not, however, in general advocate the use of personal promotions, and felt that the introduction of reward and recognition programmes could reduce the need for personal promotions".¹⁶

21. The Inspectors are aware of at least four other United Nations specialized agencies that had at one point introduced the personal promotion scheme; the United Nations Educational, Scientific and Cultural Organization (UNESCO), International Labour Organization (ILO), International Telecommunication Union (ITU), and the International Atomic Energy Agency (IAEA). In its Review of the Administration and Management at UNESCO, the JIU recommended that the scheme be eliminated and it was.¹⁷ Since 1994, the policy in ILO has been implemented on a severely restricted basis. In the light of mounting financial constraints, ITU suspended the practice; a proposal to end the scheme may be put to the July 2005 ITU Council for decision.¹⁸

22. The JIU believes the practice should be eliminated for WIPO (and system-wide). The scheme is contrary to the standards of fairness and transparency in the system of recruitment and promotion. It distorts the principle that promotion is a reward for exceptional performance. It deviates from common system practices and allows unusual privileges to WIPO staff. Significant financial implications are involved that impact indirectly on programme delivery. It may also have a negative effect on staff morale.

23. Article 9, para. 7 of the Convention Establishing the World Intellectual Property Organization (1967, and, as amended, 1979), gives the Director General the ability to appoint staff. However, Staff Regulation 4.8 (a) requires him to seek the advice of the Coordination Committee prior to making "appointments to posts in the Special and Higher categories (grade D-1 and above)...". The Inspectors believe that when vacancies in the approved staffing table occur at this level the Director General should be able to fill the vacancy without Coordination Committee advice. This Article ties the Director General's hands unnecessarily and is inefficient for the effective running and management of the Organization. This is not the practice in other organizations; a legal interpretation can clarify the issue.

Recommendation 8:

The Coordination Committee should allow the Director General to recruit and promote against approved posts at the D-level without seeking their advice.

¹⁶ International Civil Service Commission, A/49/30, 1994, para. 338

¹⁷ UNESCO Report by the Director-General on the reform process, Part 1, Staff policy, 164/EX/5, 26 April 2002, para.21

¹⁸ ITU service order No. 04/19, "Suspension of the personal promotion scheme", 22 December 2004

Recommendation 9:

The Director General should direct that:

- a. Employment of any contractual form be frozen at current levels until the headquarters review is completed;**
- b. The transfer of positions with posts be discontinued;**
- c. Any reclassifications of Professional level posts and General Service to Professional level posts be approved via the budget process, not after implementation;**
- d. The practice of personal promotions be discontinued;**
- e. A comprehensive human resources strategy be established in one properly sanctioned document, which focuses on the identification, development, and appraisal of the human resources needed to meet the priorities of the Organization. This should include, in particular, policies on career development, gender balance, geographical distribution and administration of justice;**

and report back, through the Coordination Committee, to the General Assembly at its next session, on the implementation of these measures.

Recommendation 10:

The Director General should suspend the current practice of direct recruitment and identify and submit to the General Assembly through the Coordination Committee appropriate contractual modalities that would meet the purpose of Staff Regulation 4.8 (b) while preserving the competitive nature of the recruitment process.

Oversight

External Audit

24. Selected by Member States, the Federal Audit Office of the Swiss Confederation has always been WIPO's External Auditor. They perform excellent financial audits that are well received by Member States, and do not charge for their services.¹⁹ However, the terms of reference for the External Auditor are limited to financial audits,²⁰ and as a result, no management audits have been carried out for WIPO. The Inspectors believe Member States should consider expanding the terms of reference for the external audit function, taking into consideration current best practices of other United Nations system organizations.

Internal Audit and Oversight Division

25. The Internal Audit and Oversight Division consists of an Acting Director, two evaluation officers and one G-5 secretary. None have an audit background. The Inspectors believe the staffing is very inadequate and needs strengthening, both in qualitative and

¹⁹ The Inspectors were informed that the external auditors are only reimbursed for their travel costs and per diem.

²⁰ Annex to the WIPO Financial Regulations, Terms of reference governing audit, 1992 and 1998

quantitative terms, to include, specifically, staff with an audit background. The Division itself has advised this concern to the Director General. The Inspectors would expect that no one in this office should be on a personal promotion.

26. The internal audit function was created in 2000 while the evaluation function was established in 1998. Few programme evaluations have been undertaken (four in six years, plus two done by external consultants); only one of these involved technical cooperation projects. As for internal audits, only seven have been carried out since 2000; the Inspectors were informed they were conducted by an "external" consultant, a former member of WIPO's finance staff. The internal audit division itself did not undertake any audits and no audit plans have ever been developed. There is no annual reporting mechanism to Member States and no procedure to follow-up on the implementation of recommendations of the Audit and Oversight Division.

27. An 'Internal Audit Charter' has been drafted, which will be presented to Member States for approval, and ultimately will be annexed to WIPO's Financial Regulations. Prior to its approval, the Charter needs, in the Inspectors' view, some additional fine-tuning as regards its definition, to include evaluation, and exclude the consulting function, which would be better placed elsewhere in the Organization. This should be completed as soon as possible for General Assembly approval.

Member States Role in Oversight

28. While not in favour of micro-management and aware that WIPO is primarily a fee-for-services based organization, Member States should exercise their "Board of Directors" function by taking an active and robust role not only in the programme process but in the budget process as well. Substantively the budget is of equal importance as the programme.

Recommendation 11:

The General Assembly should take steps to strengthen the effectiveness and independence of oversight at WIPO by:

- a. Requesting the External Auditor to review and submit for its consideration his/her terms of engagement with a view to bringing them in line with best practices of other United Nations organizations;**
- b. Requesting the Director General to submit concrete proposals with a view to creating a D-level post and determining the qualifications required for the head of the Internal Audit and Oversight Division; and**
- c. Enhancing the staffing of the Division with the necessary professionals qualified to carry out its mandate.**

Recommendation 12:

The Director General should ensure that the Internal Audit and Oversight Division:

- a. Expands and fine tunes an Oversight Charter for approval by the Member States;**

- b. Elaborates audit and evaluation plans based on risks and opportunities for the Organization;**
- c. Establishes a follow-up system to ensure compliance by managers with oversight recommendations;**

and report back to the General Assembly at its forthcoming session on all the measures taken.

The New WIPO Building

29. The Inspectors did not review issues related to the remodelling of the "old WMO building", or issues related to the contract awarded to the consortium selected for carrying out the construction of the "new building". They limited themselves to reviewing the paper prepared by the WIPO secretariat and submitted to Member States on January 13th 2005.²¹

30. The WIPO Secretariat is proposing to finance a less expensive project²² for the new building of 139.1 million Swiss francs with a bank loan of 113.6 million Swiss francs.²³

31. Having reviewed the proposals, the Inspectors are of the view that the project should be initiated without delay since the cost of the loan, estimated at 6.315 million Swiss francs per year,²⁴ is lower than the current annual cost of renting premises of some 8.7 million Swiss francs. Moreover, WIPO already owns the land and it would be able to relocate staff in one building.

[Annex II follows]

²¹ WIPO, Program and Budget Committee, "Options concerning the new construction", WO/PBC/IMJ05/3, 10 January 2005

²² Without the conference hall, with one floor less and including the purchasing of the land plus additional parking space.

²³ WIPO, Program and Budget Committee, "Options concerning the new construction", WO/PBC/IM/05/3, 10 January 2005, para. 11

²⁴ Yearly interest rate of 3.56 per cent plus capital amortization

ANNEX II

WIPO's Comments on JIU/REP/2005/1 entitled "Review of Management and Administration in WIPO: Budget, Oversight and Related Issues"

I. BACKGROUND

1. In early December 2004, the Chair of the Joint Inspection Unit (JIU), informed the World Intellectual Property Organization (WIPO) that the JIU was considering a review of the Organization and set out a tentative timetable targeted on issuing a preliminary report in time for the February 2005 session of the Program and Budget Committee (PBC) (please see Appendix I). WIPO offered full cooperation in the exercise. A set of background documents was sent by WIPO on December 1, 2004 (please see Appendix II), and WIPO assisted the JIU in organizing all the interviews requested (please see Appendix III).

2. On February 1, 2005, the Executive Secretary shared a preliminary draft of the report with WIPO. On February 2, 2005, WIPO met with the Inspectors in charge of the review and the Executive Secretary to provide factual corrections and comments. This was done by WIPO in a spirit of collective wisdom aiming, constructively, at a set of realistic and implementable recommendations to which WIPO would be able to subscribe (United Nations General Assembly resolution 50/233 of June 7, 1996).

3. Only a few of those comments were taken into consideration in the report transmitted to WIPO on February 10, 2005, by a letter of Inspector Wynes (not by the Chairman, as is customary; see Appendix IV.) An acknowledgement letter was sent by WIPO on February 15, 2005 (see Appendix V).

II. PROCEDURE

4. While the procedure followed by the JIU could be perceived as a derogation from the JIU's own Statute (the review on WIPO was carried out before it could be officially included in the JIU workplan for 2005), WIPO was happy to cooperate fully and unconditionally with the JIU.

5. Normally, the Organization undergoing the JIU review has three months to transmit to its competent organs the report of the JIU and its comments thereon, in all working languages (Article 11 of the JIU's Statute). Since the report was received only on February 10, 2005, for consideration at the informal session of the WIPO Program and Budget Committee to be held from February 16 to 18, 2005, obviously the JIU did not intend to allow WIPO to benefit from that provision. At the request of Member States, the Secretariat of WIPO distributed the report in English, together with the present preliminary comments (also only in English), to the informal session of the WIPO Program and Budget Committee.

6. The report and WIPO's comments thereon have now been translated into the working languages of the Organization. The Secretariat, however, reserves the right to submit additional comments in due course.

7. Under Article 11 of the JIU's Statute, the Unit's reports are finalized "after consultation among the Inspectors so as to test recommendations being made against the collective wisdom of the Unit". As the Report submitted to WIPO was sent by letter of Inspector Wynes, and not in the name of the Chairman of the Unit, as it is customary, there is no indication if the report on WIPO was in fact the collective wisdom of the Unit, as required by the Unit's Statute.

III. GENERAL COMMENT

8. The Secretariat is aware that it was no simple task to grasp the complexity of an organization like WIPO in such a brief period of time. Unlike the other UN agencies reviewed in the JIU's management and administration series, WIPO has two main constituencies and, in addition to the activities traditionally carried out by other UN agencies, it is mandated to provide commercial services to end-users. The unique nature of WIPO has long been acknowledged by its Member States. The Secretariat of WIPO believes that this complexity and uniqueness of functioning may not have been fully reflected in the analysis of the Inspectors.

9. The Secretariat also stresses that numerous areas of the Organization (the Madrid and Hague systems, Cooperation for Development, the WIPO Worldwide Academy, the Arbitration and Mediation Center, Copyright, Normative Activities, Traditional Knowledge and Genetic Resources, Enforcement, Small and Medium Enterprises (SMEs), etc.) were not included in the review.

IV. WIPO'S RESPONSE TO THE RECOMMENDATIONS OF THE JIU

10. **JIU Recommendation 1:**

"The Director General should hire independent external expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of the Organization in accordance with para. 3 above."

This recommendation has cost implications; although this cost has not yet been defined, it may be very high. Every effort will be made to accommodate these costs within existing resource levels.

11. **JIU Recommendation 2:**

"The General Assembly should approve an initial 2006-2007 budget at the revised 2004-2005 budget level, pending the outcome of the needs assessment. Any revision to the budget based on the needs assessment could be presented for approval to the Extraordinary Session of the General Assembly in September 2006."

The Secretariat agrees, subject to Member States' approval, to take the level of the revised 2004-2005 budget as a basis for the level of the proposed level of the 2006/07 budget,

provided due account is taken of the flexibility rule established by Member States in respect of registration activities (PCT, Madrid, Hague). The report of the JIU points to internal redeployment as the solution to absorb new needs. The Secretariat wishes to emphasize that internal redeployment may not always be adequate to respond to new and/or emerging technical needs in these areas. (For instance, the need created by the adoption, in 2004, of the Spanish language as an additional official language of the Madrid system; or in the PCT, needs in respect of, for instance, languages such as Chinese, Korean and Japanese.)

12. JIU Recommendation 3:

“The Director General is urged to complete on an urgent basis consultations with other relevant organizations, *inter alia*, the European Patent Office and submit to the General Assembly a proposed methodology to determine the cost of processing PCT applications.”

The Secretariat has started work towards establishing a possible methodology for determining the cost of processing PCT applications. The Secretariat believes that this work should be conducted in consultation with all stakeholders.

13. JIU Recommendation 4:

“The General Assembly should limit transfers between programmes to five per cent of the smaller amount of the two biennial appropriations of the programmes concerned.”

The implication of this recommendation is to reduce the flexibility which has been built into the budget system for more than two decades.

14. JIU Recommendation 5:

“The PCT Assembly should consider taking the necessary steps to:

- “a. Have users of WIPO services pay fees for services rendered in Swiss francs, the currency in which the budget is denominated and most expenditures incurred; and**
- “b. Have PCT fees paid directly to the IB at the time of filing the application with the national receiving office and not at the time of its transmittal to the IB by the national receiving office.”**

The Secretariat confirms that exchange rate fluctuations between the Swiss franc and the currencies in which PCT fees are paid by applicants may have an impact on the level of income of the PCT and admits that the existing corrective mechanism may not be adequate. It also recognizes the fact that the modality recommended by the JIU in (b.), above, would improve the financial situation of WIPO. These issues may deserve broad consultation.

15. **JIU Recommendation 6:**

“The Director General should look into the feasibility of establishing a mechanism to allow fees to be paid through an on-line basis to an established WIPO account.”

See response for Recommendation 5, above.

16. **JIU Recommendation 7:**

“The General Assembly is invited to institutionalize the decision of the current Director General not to accept extra remuneration for his duties in relation to UPOV, as provided for in the relevant WIPO/UPOV Agreement. In the future, the Director General should not receive any extra remuneration for additional tasks that may be entrusted to the post.”

The current Director General is personally sympathetic with the recommendation. However, it should be noted that this is not a matter that can be dealt with by the WIPO General Assembly. UPOV is a separate intergovernmental organization with a separate international legal personality. UPOV is not a specialized agency of the United Nations, nor is it a part of the UN common system. The UPOV Convention is the instrument which establishes the post of Secretary-General of UPOV. The WIPO-UPOV Agreement also provides that the Director General of WIPO shall also serve as the Secretary-General of UPOV.

17. **JIU Recommendation 8:**

“The Coordination Committee should allow the Director General to recruit and promote against approved posts at the D-level without seeking their advice.”

The Secretariat agrees to submit the JIU recommendation to the Coordination Committee.

18. **JIU Recommendation 9:**

“The Director General should direct that:

- “a. Employment of any contractual form be frozen at current levels until the headquarters review is completed;**
- “b. The transfer of positions with posts be discontinued;**
- “c. Any reclassifications of Professional level posts and General Service to Professional level posts be approved via the budget process, not after implementation;**
- “d. The practice of personal promotions be discontinued;**
- “e. A comprehensive human resources strategy be established in one properly sanctioned document, which focuses on the identification, development, and appraisal of the human resources needed to meet the priorities of the Organization. This should include, in particular, policies on career development, gender balance, geographical distribution and administration of justice;**

“and report back, through the Coordination Committee, to the General Assembly at its next session, on the implementation of these measures.”

The Secretariat agrees with the recommendation, subject, for (a), to limited exceptions for stringent operational needs, and, for (c), on the understanding that prior approval of the Program and Budget Committee is required only for the level of posts, not for the reclassification exercise.

19. JIU Recommendation 10:

“The Director General should suspend the current practice of direct recruitment and identify and submit to the General Assembly through the Coordination Committee appropriate contractual modalities that would meet the purpose of Staff Regulation 4.8 (b) while preserving the competitive nature of the recruitment process.”

The basis for this practice is Staff Regulation 4.8 (b). However, the Secretariat will apply this rule restrictively.

20. JIU Recommendation 11:

“The General Assembly should take steps to strengthen the effectiveness and independence of oversight at WIPO by:

- “a. Requesting the External Auditor to review and submit for its consideration his/her terms of engagement with a view to bringing them in line with best practices of other United Nations organizations;**
- “b. Requesting the Director General to submit concrete proposals with a view to creating a D-level post and determining the qualifications required for the head of the Internal Audit and Oversight Division; and**
- “c. Enhancing the staffing of the Division with the necessary professionals qualified to carry out its mandate.”**

Parts of this recommendation are already being implemented. Other parts will be conveyed to the competent governing bodies.

21. JIU Recommendation 12:

“The Director General should ensure that the Internal Audit and Oversight Division:

- “a. Expands and fine tunes an Oversight Charter for approval by the Member States;**
- “b. Elaborates audit and evaluation plans based on risks and opportunities for the Organization;**
- “c. Establishes a follow-up system to ensure compliance by managers with oversight recommendations;**

“and report back to the General Assembly at its forthcoming session on all the measures taken.”

Parts of this recommendation are already being implemented. Other parts will be conveyed to the competent governing bodies.

V. WIPO'S COMMENTS ON THE CONTENT OF THE JIU REPORT

Headquarters Review

22. Paragraphs 2 and 3: The Secretariat does not share the analysis of the Inspectors. The view of the Secretariat is, rather, that the current situation is the result of three combined facts: fees had been reduced rapidly between 1997 and 2003 (by approximately 40 per cent); this reduction has coincided with the progressive depletion of the reserves, decided by Member States; and also with a slow down (and even temporary stagnation) in the growth of demand for PCT services. However, the Secretariat welcomes the opportunity to carry out a comprehensive analysis of the human and financial needs of the Organization. This would also allow it to refine and update its human resource (HR) and information technology (IT) strategies.

23. The Secretariat also believes that the remarks contained in paragraph 3 prejudice the outcome of a needs assessment analysis. If further consolidation of certain programs may be possible, the conclusions of the Inspectors on duplication in areas such as translation or archives cannot be supported. These conclusions may be due to an insufficient exposure to the complex operations of the PCT and Madrid areas, whose archiving and translation functions cannot be assimilated to the traditional archiving and translation functions in the rest of the Organization.

24. Paragraph 4: The Secretariat believes that it is impossible to appreciate the level of resources required by the Organization in the next biennium on the basis of the limited number of interviews that the Inspectors were able to carry out in only two months. Also, as pointed out in paragraph 9, above, certain areas of the Organization were not included in the review. Concerning the proposed level of the 2006/07 "initial budget", please refer to WIPO's Comments on Recommendation 2.

Budget and Financial Issues

25. Paragraphs 5, 6 and 7: Again, the analysis of the JIU lacks precision and does not accurately reflect the financial evolution of the Organization.

26. Paragraph 7: The recommendation of the JIU that the reserves should not be drawn down before September 2005 is in contradiction with the decisions taken by the Member States of the PCT in September 2004 (see document PCT/A/33/7, paragraph 70, and A/40/7, paragraph 174):

“The [PCT] Assembly adopted the following decision:

“(a) Consideration of the proposal on the adjustment of PCT fees should be continued beyond the 2004 WIPO Assemblies to reach a conclusion.

“(b) The PCT Assembly recommends to the WIPO General Assembly that, as soon as possible, there should be a session of the Program and Budget Committee that should analyze, *inter alia*, any readjustment of PCT fees.

“(c) An extraordinary session of the PCT Assembly should be convened, if needed, to consider any proposal on the adjustment of PCT fees. In order to minimize the cost of such an extraordinary session, Rule 84.1 of the Regulations Under the PCT should be applied in this particular instance.

“(d) The PCT Assembly takes note of the concerns expressed regarding the possible impact of any delay in decision making on adjustment of PCT fees on the implementation of WIPO’s program activities, in particular, on its cooperation for development programs.

“(e) The PCT Assembly was informed that in order to maintain its present level of technical and development assistance, WIPO will have to draw on its reserves.”

27. Furthermore, under WIPO Financial Regulation 8, financial reserves and working capital funds are established precisely to cover cash flow and budget deficit. The Secretariat wishes nevertheless to stress that it is committed to continue to make all efforts to limit the deficit in the 2004-2005 biennium.

Personnel Practices

28. Paragraph 14: It should be noted that this increase in the workforce reflects the increase in demand for the Organization’s services and the overall increase in its activities, and was within the levels approved by the Member States. Also, the number of approved posts is not the same thing as the actual number of staff.

29. Paragraph 15: The report does not seem to acknowledge the increase in geographical diversity in both staff and temporary employees over the period from 1997 to 2004, as evidenced by statistics provided to the JIU Inspectors. In 1997, 68 nationalities were represented among WIPO staff; by 2004, this had risen to 95, an increase of 40 per cent. In the same period, there was also a significant increase in diversity among temporary employees. We would also note that much improvement has been made in the area of gender balance. In 1997, 3 per cent of the higher category posts, and 36 per cent of professional posts were held by women. By 2004, the figures were 15 per cent and 47 per cent respectively.

30. Paragraph 16: It should be made clear that the practice referred to was applied only in certain instances. In the majority of cases, transfers were made either to vacant posts or involved swapping of posts between programs.

31. Paragraph 17: It should be stressed that the posts which were subject to reclassification in the 2002-2003 biennium were all reclassified in accordance with the standards established for the United Nations common system organizations by the International Civil Service Commission (ICSC).

32. Paragraph 18: It should be noted that the instrument of direct recruitment has served the Organization well, and has been very positively evaluated by independent external experts, in the Mathis report of 1999, and the National Academy of Public Administration (NAPA) report of 2001.

The New WIPO Building

33. Paragraphs 30 and 31: The Secretariat welcomes the conclusion of the Inspectors, that WIPO should start without delay the conclusion of a less expensive version of the new construction project (139.1 million Swiss francs) by way of a bank loan in the amount of 113.6 million Swiss francs, as per WIPO document WO/PBC/IM/05/3, paragraphs 13 to 16 and 19. The Secretariat notes with satisfaction that the information which it provided to the informal session of the Program and Budget Committee has been validated by the JIU.

[Appendices follow]

A/41/12

APPENDIX I

A/41/12

APPENDIX II

[Appendix III follows]

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APPENDIX III

[Appendix IV follows]

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APPENDIX IV

[Appendix V follows]

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APPENDIX V

[End of Appendix V and of document]