

ANNEXE II

WIPO



WO/PBC/10/5

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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

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PROGRAM AND BUDGET COMMITTEE

Tenth Session

Geneva, July 11 to 13, 2006

REPORT

prepared by the Secretariat

1. The tenth session of the WIPO Program and Budget Committee (PBC), hereinafter referred to as “the Committee,” was held at the headquarters of WIPO from July 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: Argentina, Brazil, Bulgaria, Canada, China, Colombia, Czech Republic, Ecuador, France, Germany, Iran (Islamic Republic of), Italy, Japan, Kenya, Nigeria, Philippines, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Switzerland (*ex officio*), Thailand, Ukraine, United Kingdom and United States of America (26). In addition, the following States members of WIPO but not

members of the Committee were represented as observers: Barbados, Croatia, Democratic People's Republic of Korea, Democratic Republic of the Congo, Dominican Republic, Indonesia, Israel, Latvia, Peru, Serbia, and Slovenia (11). The list of participants is annexed to the present document¹ (Annex I).

3. In the absence of the Chair of the Program and Budget Committee, Mr. Dirk Kranen (Germany), the session was chaired by the Vice-Chair of the Committee, Ms. Ludmila Štěřbová (Czech Republic). Mrs. Carlotta Graffigna (Executive Director and Controller, WIPO) acted as Secretary.

ADOPTION OF THE AGENDA

4. The Chair stated that it had been suggested to add an item on the agenda to give an opportunity to the Chair of the Audit Committee to give an oral briefing on that Committee's second session, which had taken place from July 5 to 7, 2006. The item would be entitled "Briefing on the Second Session of the Audit Committee by the Chair of that Committee". The agenda was so amended and adopted.

5. The Secretariat stated that, as announced in informal consultations with the Group Coordinators prior to the current session of the Committee, the proposed new mechanism would create an additional workload for the Secretariat. It therefore proposed that as of the present session of the Committee the report would consist of a summary of the discussions and the decisions and recommendations which were adopted. This was more in line with best practices of other UN system organizations. Individual statements would be reflected only if a delegation would explicitly request that its statement be placed on record. There was no objection to this proposal.

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

6. Discussions were based on document WO/PBC/10/2 ("Proposal on A New Mechanism to Further Involve Member States in the Preparation and Follow Up of the Program and Budget"). In introducing the item, the Secretariat presented the proposed mechanism and emphasized its innovative elements as compared to previous practice.

7. Interventions on this item were made by the Delegations of Argentina, Brazil, France, Iran (Islamic Republic of), Romania, Serbia, South Africa, Switzerland, on behalf of Group B, United Kingdom, and the United States of America. The Delegations of Brazil and Switzerland, on behalf of Group B, requested that their statements be reflected in the report.

8. Most delegations expressed support for the proposed mechanism. Some delegations sought clarifications on a number of points. In addition a number of amendments were proposed with respect to Annexes III and IV of document WO/PBC/10/2 and to the proposed revision to Financial Regulation 3.2 as per paragraph 9 of the same document. These amendments are reflected in paragraph 25 (i), below.

¹ List not reproduced here.

9. The Delegation of Switzerland, speaking on behalf of Group B, stated that it attached the greatest importance to the work, outcome and working modalities of the Program and Budget Committee. Regarding the proposed new mechanism Group B was pleased that the last informal session of the Committee had been successful in identifying a new mechanism. It commended the constructive and responsive attitude shown by the Controller in that informal session. Group B welcomed the new features of the proposed mechanism, and in particular, the presentation of the Internal Auditor's report to the WIPO Assemblies, and enhanced consultations with Member States to prepare the next Program and Budget, the enhanced review of revised budgets and Program Performance Reports (PPRs). Group B also welcomed the fact that the PBC would review inputs from the Audit Committee and the Internal Auditor, and that under the new mechanism there would be, from 2008 onwards, an additional formal session of the PBC in off-budget years. This additional session should be held before the WIPO Assemblies or then the Assemblies should be held at a later date than currently. In conclusion, Group B supported the proposal of the Secretariat on the new mechanism.

10. The Delegation also stated that Group B attached the highest priority to a transparent and thorough desk-to-desk review, to be undertaken by an independent entity and to be started as soon as possible. The final report of the review should be made available for the 2007 WIPO Assemblies. Group B welcomed the recommendations from the WIPO Audit Committee on the subject; however, it believed that the selected External Firm would be more effective if it confined its work to WIPO's current mandate. In Group B's view, an assessment by the external firm of the expected evolution of the IP environment and the validation of that analysis by WIPO management and Member States through the Group Coordinators would unnecessarily delay the work without improving the quality of the review. Finally, Group B thanked the Secretariat for the information contained in the Progress Report on the New Construction Project, of which content it had taken due note.

11. The Delegation of Nigeria said that it understood that the Chairman of the WIPO Audit Committee would brief the PBC on the work of the Audit Committee. In which case, it asked whether the Audit Committee had considered the proposed new mechanism and suggested that the PBC be informed of the Audit Committee's views and recommendations on this matter.

12. With reference to the above intervention by the Delegation of Nigeria, the Delegation of Brazil stated that in its view the main objective of this discussion was to reinforce the involvement of the Member States in the elaboration of the Program and Budget of the Organization and, in particular, its programmatic aspects. This elaboration was the prerogative of the Member States through the PBC and as such did not fall within the mandate of the Audit Committee. The Delegation would be concerned if any different procedures were to be established in this respect since the Audit Committee did not represent the Member States.

13. At the end of the discussion, the Committee adopted the recommendation reproduced in paragraph 25, below.

BRIEFING ON THE SECOND SESSION OF THE AUDIT COMMITTEE BY THE CHAIR OF THAT COMMITTEE; PROGRESS REPORT ON THE DESK-TO-DESK PROJECT; PROGRESS REPORT ON THE NEW CONSTRUCTION PROJECT

14. Upon the Chair's suggestion, these three items were dealt with simultaneously.

15. Interventions on this combined item were made by the Delegations of Argentina, Brazil, Nigeria, the Russian Federation, Switzerland, on behalf of Group B, and the United States of America. The Delegations of Argentina, Brazil, Nigeria and Switzerland, speaking on behalf of Group B, requested that their statements be reflected in the report.

Briefing on the second session of the Audit Committee

16. The Chair of the Audit Committee briefed the PBC on the work of the Audit Committee and presented the outcome of the second session of that Committee, which had taken place from July 5 to 7, 2006. The final report of that session would be circulated to all Member States shortly. The statement of the Chair of the Audit Committee is reproduced in Annex II.

Progress report on the desk-to-desk project

17. The Secretariat introduced document WO/PBC/10/3 ("Progress Report on the Desk-to-Desk Project"). It emphasized that the tender process would start in July 2006 and a contract with the selected External Firm would be signed before the end of November 2006. The Secretariat would make its best effort to ensure that the final report of the project would be ready for submission to the September 2007 session of the Assemblies of the WIPO Member States.

18. The Delegation of Argentina referred to the recommendations of the Audit Committee mentioned in paragraph 10 of document WO/PBC/10/3. Based on these recommendations, the desk-to-desk project would have a preliminary phase in which the External Firm would validate its understanding of the world IP environment with Group Coordinators. It was not clear to the Delegation what the objective of this validation was and how an External Firm could conduct it. Also, the Group Coordinators were not delegated such authority by the Member States. The Delegation also expressed concern at the suggestion that the pre-assessment of the External Firm should be based on the "strategic goals and objectives of WIPO as defined by WIPO Member States in the Medium Term Plan for WIPO Program Activities – Vision and Strategic Direction of WIPO for 2006-2009 (document A/39/5)". The Medium Term Plan contained in document A/39/5 was a memorandum by the Director General. It had not been submitted to the approval of the Member States. The 2003 Assemblies of WIPO Member States had only taken note of it.

19. The Delegation of Brazil also referred to the recommendations of the Audit Committee to include in the project a pre-assessment phase in which the External Firm would validate its understanding of the world IP environment with Group Coordinators and stated that these recommendations raised several concerns for the Delegation. These recommendations dealt with very sensitive substantive issues that at the moment were the subject of in-depth debate at WIPO. There existed several different perceptions of the evolution of the world IP environment. No single Member State was in a position to validate this understanding on

behalf of the whole membership and even Group Coordinators were not in a position to do so. To validate the perception of the Friends of Development countries the External Firm would need to take into consideration the Development Agenda process. This, and the documents issued under that process, were not referred to in the recommendations of the Audit Committee. Also, the Medium Term Plan referred to by the Audit Committee did not represent an agreement or a common understanding in Member States on the mission and vision for WIPO and hence could not be a reference point. In conclusion, the Delegation was of the view that the desk-to-desk assessment should be an administrative and managerial process or study on how to match WIPO's existing resources with its current mandate and approved programs. This study should not be based on any speculation on future programs. The Delegation was not in a position to support the recommendations of the Audit Committee referred to in paragraph 10 of document WO/PBC/10/3, since in its opinion these went well beyond the objective of the assessment.

20. Also with reference to the above-referred recommendations of the Audit Committee, the Delegation of Switzerland, speaking on behalf of Group B, referred to its previous statement under agenda item 3 (see paragraphs 9 and 10 above). It reiterated its view that the External Firm would be most effective if it confined its assessment to WIPO's current mandate and work: to address the expected evolution of the world IP environment with WIPO's Management and Member States through Group Coordinators would only further delay the work unnecessarily without commensurate improvement in the quality of the review.

21. After hearing the interventions of other delegations and the clarifications of the Secretariat, the Delegation of Argentina reiterated that it could not support the recommendation of the Audit Committee on the pre-assessment phase. This would introduce sensitive political elements in what was meant to be a managerial study based on objective parameters. There was significant divergence in the views of the Member States of WIPO on the Organization's vision and mission, as had also been demonstrated in recent debates on the Development Agenda. The pre-assessment phase would also have an adverse impact on the cost and timeline of the project with no improvement in quality. The Delegation supported the views expressed on the issue by the Delegations of Brazil and Switzerland (speaking on behalf of Group B).

22. The Delegation of Nigeria stated that the circumstances under which the JIU had made its recommendation on the desk-to-desk assessment had influenced its views on this exercise. The Delegation questioned the need for the desk-to-desk assessment to be conducted through independent external expertise and believed that the Secretariat was capable of conducting such an exercise by itself with inputs from its oversight bodies (the External Auditor, the Internal Auditor and the Audit Committee). This would also enable the Organization to utilize the financial resources allocated to this exercise for other purposes. The Delegation further questioned the concept behind entrusting the pre-assessment phase of the desk-to-desk assessment to an External Firm. It observed that requesting the Secretariat and the WIPO Audit Committee to conduct such a pre-assessment would ensure that the Secretariat would be permitted to undertake its routine managerial activities of planning the deployment and utilization of its resources. Furthermore, the WIPO Audit Committee could bring its skills and competencies to the exercise. The Delegation concluded by stating that, in its opinion, the WIPO Secretariat and the WIPO Audit Committee should be requested to undertake the preliminary assessment of the desk-to-desk project and submit a report to the Member States rather than outsourcing this to an External Firm.

Progress report on the new construction project

23. The Secretariat introduced document WO/PBC/10/4 (“Progress Report on the New Construction Project”). It explained how the Project Charter (made available to the delegations at the session) had been revised according to the recommendations of the Audit Committee and it informed the Committee on the first session of the Selection Board, the audit recommended by the Audit Committee, and the additional consequential delays caused to the overall process. The progress report given by the Secretariat in this respect is summarized in Annex V.

24. At the end of the discussion on this combined item, the Committee adopted the conclusions and recommendations reproduced in paragraphs 25 to 27, below.

25. *With reference to the new mechanism to further involve Member States in the preparation and follow up of the Program and Budget of the Organization, the Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and the Unions administered by WIPO, each as far as it is concerned:*

(i) to amend the text of WIPO Financial Regulation 3.2 as follows²:

“The Director General shall submit to the Program and Budget Committee, for [observations and possible recommendations]discussion, comments and recommendations, including possible amendments, by the first of [May]July of the year preceding the financial period, the draft program and budget for that financial period; ...”;

(ii) to adopt the new mechanism set out in Annex III of this report for the transitional phase (2006/07); and

(iii) to adopt the new mechanism set out in Annex IV of this report from 2008 onwards.

26. *Concerning the other agenda items, the Program and Budget Committee took note of the briefing given by the Chair of the Audit Committee on the second session of the WIPO Audit Committee (July 5 to 7, 2006), and of the*

² Recommended deletions are in square brackets and recommended amendments are underlined.

contents of documents WO/PBC/10/3 (“Progress Report on the Desk-to-Desk Project”) and WO/PBC/10/4 (“Progress Report on the New Construction Project”).

27. As regards the desk-to-desk assessment of the human and financial resources of the Organization, while grateful for the advice of the Audit Committee thereon, the Committee decided that it was not necessary to implement the recommendations referred to in paragraph 10 of document WO/PBC/10/3 and that the terms of reference of the selected External Firm should therefore not include the additional pre-assessment and validation phase recommended by the Audit Committee.

28. The Delegation of Nigeria referred to its intervention (recorded in paragraph 22, above) and requested to place on record its strong reservations as regards the desk-to-desk project.

29. In reply to a question from the Delegation of Brazil, the Secretariat stated that it would provide a progress report on the desk-to-desk project at the next session of the Assemblies of WIPO Member States. The progress report would inform on the terms of reference of the project. For the time being and until the launch of the commercial tender this was a confidential document. The Delegation of Brazil requested that the reply by the Secretariat be reflected in the final report.

CLOSING OF THE SESSION

30. The session was closed.

[Annexes follow]