

WIPO



A/47/6

ORIGINAL: English

DATE: August 15, 2009

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

ASSEMBLIES OF THE MEMBER STATES OF WIPO

Forty-Seventh Series of Meetings Geneva, September 22 to October 1, 2009

PROPOSAL FOR REVISION OF THE FINANCIAL REGULATIONS AND RULES

presented by the Director General

1. The present document contains the Proposal for Revision of the Financial Regulations and Rules (document WO/PBC/14/7), which will be submitted to the fourteenth session of the WIPO Program and Budget Committee (PBC) to be held from September 14 to 16, 2009.
2. The recommendation of the PBC in respect of this document will be included in the “Summary of Recommendations Made by the Program and Budget Committee at its Fourteenth Session Held from September 14 to 16, 2009” (document A/47/15).
3. *The Assemblies of the Member States of WIPO and of the Unions administered by it, each as far as it is concerned, are invited to approve the recommendation of the Program and Budget Committee made in respect of document WO/PBC/14/7, as recorded in document A/47/15.*

[Attachment follows]

WIPO



WO/PBC/14/7

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DATE: August 15, 2009

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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PROGRAM AND BUDGET COMMITTEE

Fourteenth Session

Geneva, September 14 to 16, 2009

PROPOSAL FOR REVISION OF THE FINANCIAL REGULATIONS AND RULES

presented by the Director General

1. At their forty-third session, the Assemblies of the Member States of WIPO approved the new Financial Regulations of the Organization. They further “requested the Secretariat to submit to the first 2008 formal session of the Program and Budget Committee (PBC) a revised draft text of Regulation 5.6 (Flexibility Adjustments), with a view to enabling the Program and Budget Committee to submit a final recommendation for adoption to the 2008 session of the Assemblies of WIPO Member States” (A/43/16).
2. As there was no opportunity to present the revised draft text of Regulation 5.6 for consideration by the Program and Budget Committee or the Assemblies of the Member States of WIPO during their respective 2008 sessions, the proposal for a revised draft text is presented for consideration by the Program and Budget Committee for its present, fourteenth session, with a view to enabling it to submit a recommendation for adoption to the 2009 session of the Assemblies of the Member States of WIPO.
3. A number of further changes to Regulations and/or Rules have been identified as necessary as (i) part of the preparations for the implementation of IPSAS and the related implementation of IT modules (procurement and asset management modules of PeopleSoft – see also WO/PBC/14/6), and (ii) as a result of the change in senior management due to take place as of December 1, 2009 or earlier (WO/CC/61/2). The changes in respect of IPSAS

implementation are proposed to come into effect as of January 1, 2010, while all other changes are proposed to come into effect as of October 1, 2009.

4. The following changes in Regulations are proposed for consideration and approval. All proposed amendments are indicated in track change mode in the Annex to this document.

(i) Regulation 3.12

As initially approved: “Monies accepted for purposes specified by the donor shall be treated as trust funds.”

As proposed to be amended: “Monies accepted for purposes specified by the donor shall be accounted for in special accounts.”

Reason for proposed change: With the introduction of IPSAS, the funds held by WIPO as Funds in Trust (FITs or extra-budgetary contributions) will be accounted for under “special accounts”.

(ii) Regulation 3.14

As initially approved: “Monies accepted in respect of which no purpose is specified shall be treated as miscellaneous income and reported as gifts in the accounts of the financial period.”

As proposed to be amended: “Monies accepted in respect of which no purpose is specified shall be treated as miscellaneous income and reported in the financial management report of the financial period.”

Reason for proposed change: With the introduction of IPSAS, the specific details regarding monies in respect of which no purpose is specified upon receipt (e.g. who provided such monies, in what amounts, etc.), will be disclosed as part of the financial management report of the Organization. The financial statements (accounts) will continue to disclose the amount of miscellaneous income received, and the notes to the same will disclose the breakdown of the same, but will not include the details specified above, as these will be provided in the financial management report.

(iii) Regulation 4.7

As initially approved: “If, after the approval of the final accounts, any Union shows a surplus of income, such surplus shall be paid into the reserve funds, unless otherwise decided by the General Assembly or the Assembly of the Union concerned.”

As proposed to be amended: “If, after the closure of the financial period, any Union shows a surplus of income, such surplus shall be accounted for under the reserve funds, unless otherwise decided by the General Assembly or the Assembly of the Union concerned.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation, i.e. “approval of the final accounts” is replaced by “closure of the financial period”; “shall be paid into the reserve funds” is replaced by “shall be accounted for under the reserve funds”.

(iv) Regulation 4.8

As initially approved: “If, after the approval of the final accounts, any Union shows a deficit, not coverable out of reserve funds, the General Assembly of WIPO or the Assemblies of the interested Unions, as the case may be, shall decide upon measures to redress the financial situation.”

As proposed to be amended: “If, after the closure of the financial period, any Union shows a deficit, not coverable out of reserve funds, the General Assembly of WIPO or the Assemblies of the interested Unions, as the case may be, shall decide upon measures to redress the financial situation.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation, i.e. “approval of the final accounts” is replaced by “closure of the financial period”.

(v) Regulation 5.3

As initially approved: “Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to discharge obligations in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period.”

As proposed to be amended: “Expense accruals shall remain available for twelve months following the end of the financial period to which they relate, to the extent that they are required to cover payments in respect of goods supplied and services rendered in the financial period.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation.

(vi) Regulation 5.4

As initially approved: “At the end of the twelve-month period provided for in Regulation 5.3 above, any unliquidated obligations of the financial period in question shall be cancelled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.”

As proposed to be amended: “At the end of the twelve-month period provided for in Regulation 5.3 above, any expense accruals of the financial period in question shall be cancelled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation.

(vii) Regulation 5.6

As initially approved: This Regulation refers to the Flexibility Adjustments, for which no approved text existed. The draft text presented to the PBC at its twelfth session in September 2007, which had not been adopted, was as follows:

“(a) In the implementation of the program and budget, the Director General shall have the flexibility to make proportionate upward or downward adjustments to the resources appropriated for the operations of the PCT, Madrid and Hague systems, and of programs providing common services to those systems, to reflect any increase or decrease in demand for services in these systems as compared to the estimates contained in the initial or revised budget. These adjustments shall be made in accordance with a formula to be contained in the approved Program and Budget for the relevant financial period.

(b) Such formula shall consist of a correlation between the higher (or lower) level of demand for PCT, Madrid and Hague systems, as compared to the estimates in the initial or revised budget, and the corresponding increase (or decrease), in the financial resources that may be appropriated to the relevant program(s). The formula shall define, for each given financial period the amount of additional (or less) financial resources triggered by its implementation, as required.”

Proposed new text: “(a) In the implementation of the program and budget, the Director General shall have the flexibility to make upward or downward adjustments to the resources appropriated for the operations of the PCT, Madrid and Hague systems, and for WIPO programs providing administrative support to these operations.

(b) These adjustments shall be made in accordance with the methodology and formula(e) approved by the respective assemblies of the PCT, Madrid and Hague Unions, and presented in the proposed program and budget for the relevant financial period.”

Reason for proposal: In line with the decision of the Assemblies, the Secretariat is submitting a revised draft text of Regulation 5.6 (Flexibility Adjustments), with a view to enabling the Program and Budget Committee to submit a final recommendation for adoption to the Assemblies of WIPO Member States. The revised draft text recognizes the authority of the respective assemblies of the PCT, Madrid and Hague Unions to establish the methodology and formula for the flexibility adjustments, and requires that this be disclosed in the proposed Program and Budget being presented for approval by the Assemblies.

(viii) Regulation 6.1

As initially approved: “The Director General shall submit accounts for the financial period. In addition, he or she shall maintain and safeguard against damage, destruction, unauthorized access and removal such accounting records as are necessary for management purposes, including interim accounts for the first calendar year of the financial period. Both the interim accounts and the accounts for the financial period shall show: *[listing follows]*”

As proposed to be amended: “The Director General shall maintain and safeguard against damage, destruction, unauthorized access and removal, such accounting records as are necessary for management purposes. The Director General shall prepare financial statements for both years of the financial period, which shall show: *[listing follows unchanged]*”

Reason for proposed change: With the introduction of IPSAS, annual financial statements will be prepared in addition to the full biennial accounts for the financial period.

(ix) Regulation 6.2

As initially approved: “Appropriate separate accounts shall be maintained for all trust funds and reserve and special accounts.”

As proposed to be amended: “Appropriate separate accounts shall be maintained for all trust and reserve funds and special accounts.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation.

(x) Regulation 6.3

As initially approved: “The accounts of the Organization shall be presented in Swiss francs. Accounting records may, however, be kept in such currency or currencies as the Director General may deem necessary.”

As proposed to be amended: “The financial statements and the financial management report of the Organization shall be presented in Swiss francs. Accounting records may, however, be kept in such currency or currencies as the Director General may deem necessary.”

Reason for proposed change: With the introduction of IPSAS, the financial statements and the financial management report will be two different sets of documents. Both will need to be presented in Swiss francs.

(xi) Regulation 6.5

As initially approved: “The accounts for the financial period shall be submitted by the Director General to the External Auditor and the Audit Committee no later than March 31 following the end of the financial period.”

As proposed to be amended: “The financial statements for both years of the financial period shall be submitted by the Director General to the External Auditor and the Audit Committee no later than March 31 following the end of each year of the financial period. Final financial statements covering both years of the financial period shall be submitted to the External Auditor and the Audit Committee not later than April 30 following the end of the financial period.”

Reason for proposed change: With the introduction of IPSAS, annual financial statements will be prepared in addition to the full biennial accounts for the financial period. Accordingly, it is proposed that the annual financial statements would be submitted to the External Auditor by March 31, while the biennial financial statements (which would be the second set of statements produced in the second year of the biennium), would be submitted a month later, i.e. by April 30.

(xii) Regulation 6.6

As initially approved: “Within five months after the end of each financial period, the Director General shall prepare the financial management report for that financial period. That report shall include the statements of account, the balance sheet, a report on investments and a statement on the contributions of the Member States.”

As proposed to be amended: “Within five months after the end of each financial period, the Director General shall prepare the financial management report for that financial period. That report shall include the financial statements covering the financial period, statement of budget and actual income and expenditure for the financial period reported on the same basis as the adopted budget in accordance with Regulation 6.1, a report on investments and a statement on the status of contributions of the Member States.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation

(xiii) Regulation 6.7

As initially approved: “After audit, the financial management report and the report of the External Auditor shall be transmitted to all the interested States.”

As proposed to be amended: “After audit, the annual financial statements, financial management report and the report of the External Auditor shall be transmitted to all the interested States.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation, together with the reflection of the separation of the financial statements and the financial management report as separate documents.

(xiv) Regulation 8.10

As initially approved: “The External Auditor shall issue a report on the audit of the financial statements relating to the accounts for the financial period, which shall include such information as the External Auditor deems necessary with regard to matters referred to in Regulation 8.5 and in the annex to the present Regulations referred to in Regulation 8.4.”

As proposed to be amended: “The External Auditor shall issue an opinion on the financial statements for each year of the financial period, and a report on the audit of the financial statements for the financial period, which shall include such information as the External Auditor deems necessary with regard to matters referred to in Regulation 8.5 and in the annex to the present Regulations referred to in Regulation 8.4.”

Reason for proposed change: With the introduction of IPSAS, the appropriate terminology has been introduced in the above Regulation, together with the reflection of the need for the External Auditor to issue an opinion on the annual financial statements and a report on the biennial financial statements.

5. *The Program and Budget Committee is invited to recommend the approval of the amended Financial Regulations listed in paragraph 4 above to the General Assembly, effective (i) January 1, 2010, in respect of amended Regulations 3.12, 3.14, 4.7, 4.8, 5.3, 5.4, 6.1, 6.2, 6.3, 6.5, 6.6, 6.7, and 8.10; and (ii) October 1, 2009 in respect of amended Regulation 5.6.*

6. In accordance with Financial Regulation 10.1, Rule 110.1, the “present Rules may be amended by the Director General in a manner consistent with the Financial Regulations”. Accordingly, the following amendments will be made by the Director General to the Financial Rules. All proposed amendments are attached to this document and are indicated in track change mode.

- (i) **In respect of IPSAS implementation – effective January 1, 2010 and subject to approval by the General Assembly of the proposed amendments to Financial Regulations 3.12, 3.14, 4.7, 4.8, 5.3, 5.4, 6.1, 6.2, 6.3, 6.5, 6.6, 6.7, and 8.10;**

Rule 101.3 Definitions: Rule 101.3(h), (k), (o), (p), and (q) are amended to reflect IPSAS terminology. Rule 101.3 (i) is deleted as fund accounting is not relevant under IPSAS; with the deletion of (i), the subsequent points are re-numbered.

Rule 103.2 Reimbursement of expenditures: Rule 103.2(b) are amended to reflect IPSAS terminology, and to accurately indicate that once a special account is closed, any subsequent adjustments can only be made against miscellaneous income under the regular budget (WIPO’s accounts).

Rule 105.8 Establishment and amendment of obligations: Rule 105.8(a) is amended to accurately reflect the concept and definition of accruals under IPSAS.

Rule 105.29 Authority and responsibility: Rule 105.29(b) is amended to reflect the annual reporting requirements (financial statements) under IPSAS.

Rule 106.1 Principal accounts: Rule 106.1 main paragraph, and 106.1(v) and (vi) are amended to reflect IPSAS terminology and to accurately reflect the concept and definition of accruals under IPSAS.

Rule 106.5(c) Accounting for exchange rate fluctuations: Rule 106.5(c) will be deleted. IPSAS provides clear and detailed guidance, under IPSAS-4 The Effects of Changes in Foreign Exchange Rates, in respect of this subject. Accordingly the only Rules necessary to retain are those related to WIPO specific aspects of the implementation of this Standard.

Rule 106.6 Accounting for proceeds from the sale of property: Rule 106.6(d) has been amended to provide clarity in the formulation of the text.

Rule 106.7 Accounting for commitments against future financial periods: The Rule has been amended to address redundancy and duplication with Rule 105.1 and ensure accurate reflection of IPSAS terminology.

Rule 106.10 Direct and indirect expenses: Rule 106.10(c) has been amended to clarify that the information regarding direct and indirect expenses shall be provided as part of the financial management report and not the financial statements.

Regulation 106.11 Financial Statements: Rule 106.11(a) has been amended in line with Regulation 6.5 to reflect that the annual financial statements would be submitted to the External Auditor by March 31, while the biennial financial statements, would be submitted a month later, i.e. by April 30.

(ii) In respect of the procurement module implementation – effective October 1, 2009

Rule 101.3 Definitions: Rule 101.3(k) and (l) to reflect the terminology to be used for “commitments” in the procurement module (“purchase requisition”), and to ensure that “officers” of the Organization, who are assigned approving or certifying authority, also include employees on temporary appointments (i.e. short term employees). The latter is essential for the appropriate functioning and resourcing of the administrative areas of the Organization.

Rule 105.4 Checks and balances: Rule 105.4 is amended to more accurately reflect the future process whereby signatures will be replaced by electronic approvals to a large extent, although conventional approval methods (via signatures) will also be retained.

Rule 105.5 Program Managers: Rule 105.5(a) is amended to explicitly include pre-encumbrances (commitments) under the certification procedure performed by certifying officers, and Rule 105.5(b) is amended to reflect the possibility of Program Managers to designate more than one alternate.

(iii) In respect of the change in senior management – effective October 1, 2009

In view of the change in titles and functions in the new senior management team (WO/CC/61/2) and the early departure of the Deputy Director General previously responsible for procurement functions, the official designated by the Director General to take responsibility for procurement functions will be a “High Level Official in charge of Procurement”. Accordingly, the “Deputy Director General in charge of Procurement” will be replaced by the “High Level Official in charge of Procurement” (or “HLOP”) in all the following amended Rules: Rule 105.12(a), (b), (c); Rule 105.16(a); Rule 105.17; Rule 105.18 main paragraph and 105.18(i); Rule 105.19; Rule 105.21; Rule 105.23; Rule 105.25; Rule 105.29; Rule 105.30(a), and (b).

7. The Program and Budget Committee is invited to take note of the amendments to Financial Rules and their respective effectiveness dates, as detailed in paragraph 6 above.

[Proposed amendments to the FRR follow]

WIPO



WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

**FINANCIAL REGULATIONS AND RULES
OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) ***

(proposed amendments marked in track-changes mode)

* Applicable as from January 1, 2008.

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- Annex II Terms of Reference Governing External Audit
- Annex III Terms of Reference of the WIPO Audit Committee

CHAPTER 1: GENERAL PROVISIONS**Applicability and authority****Regulation 1.1**

These Regulations shall govern the financial activities of the World Intellectual Property Organization (WIPO) (hereinafter referred to as the Organization) and of the Unions administered by it. They are approved by the General Assembly.

Rule 101.1

The Financial Rules are established by the Director General in accordance with the provisions of the Financial Regulations. The Program and Budget Committee is informed of any modification of the Financial Rules. They shall govern all the financial management activities of the Organization except as may otherwise explicitly be provided by the General Assembly or unless specifically exempted therefrom by the Director General. The Director General hereby delegates authority and assigns responsibility for the implementation of the Financial Regulations and Rules to the Controller. The Controller may in turn delegate aspects of his/her authority to other officers unless the Director General indicates otherwise. In the application of the Financial Regulations and Rules, officers shall be guided by the principles of effective and efficient financial management and the exercise of economy.

Responsibility and accountability**Rule 101.2**

All employees of the Organization are obliged to comply with the Financial Regulations and Rules and with Office Instructions issued in connection with those Regulations and Rules. Any employee who contravenes the Financial Regulations and Rules or corresponding Office Instructions may be held personally accountable and financially liable for his or her actions.

Definitions**Rule 101.3**

For the purpose of these Rules:

- (a) “Assemblies of the Unions” mean the Assemblies of each Union constituted by a treaty administered by WIPO;
- (b) “Coordination Committee” is the Committee referred to in Article 8 of the Convention Establishing the World Intellectual Property Organization, Stockholm, July 14, 1967, and as amended;
- (c) “General Assembly” is the body of Member States referred to in Article 6 of the Convention Establishing the World Intellectual Property Organization, Stockholm, July 14, 1967, and as amended;

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- (d) “Program and Budget Committee” means the Committee constituted by the General Assembly to deal with program, budget, personnel resources, premises, and finance;
- (e) “Appropriations” shall mean the budgetary expenditure authorizations approved by the General Assembly for the financial period against which expenditures may be incurred for purposes specified by the General Assembly;
- (f) “Disbursement” shall mean the actual amount paid;
- (g) “Employee” is a person engaged by the Organization, under any type of contract, to perform duties;
- (h) “Expenditure” shall mean the sum of disbursements and ~~unliquidated obligations~~ *expense accruals*;
- ~~(i) “Fund” shall mean an independent accounting entity established pursuant to the Regulations and Rules for a specified purpose;~~
- ~~(j) “Headquarters” shall mean the offices of the Organization located in Geneva;~~
- ~~(k) “Obligations” are amounts of orders placed, contracts awarded, services received and other transactions for which goods have been received or services rendered during the~~ involve a charge against resources for the current financial period and which will require payment during the same or a future period;
- ~~(l) “Officer” is a person employed by the Organization on a fixed-term, permanent, or temporary appointment regular budget post and whose relationship with the Organization is governed by the Staff Regulations and Staff Rules;~~
- ~~(m) “Pre-encumbrance” (“Commitment” or “Purchase Requisition”) shall mean an engagement involving an earmarking of funds against resources of the Organization;~~
- ~~(n) “Program Manager” is a senior officer designated by the Director General to be in charge of one or more programs in the Program and Budget;~~
- ~~(o) “Reserve Funds” shall mean a funds established by the Assemblies of the Member States and of the Unions, each as far as it is concerned, in which surplus income from fees that exceed the amounts required to finance the program and budget appropriations should be deposited. Reserve funds shall be used in a manner decided by the Assemblies of the Member States and of the Unions, each as far as it is concerned;~~
- ~~(p) “Trust fund Special Account” shall mean an account fund for monies not being part of the appropriations but administered by the Organization on behalf of voluntary contributors for specific activities which must be consistent with the aims and policies of the Organization;~~
- ~~(q) “Unliquidated obligation Trust funds” shall mean funds held by the Organization on behalf of other entities an obligation or that portion of an obligation which is not yet paid or otherwise reduced;~~
- ~~(r) “Working capital funds” shall mean a funds established for providing advance financing of appropriations should there be a temporary liquidity shortfall and for~~

such other purposes as the Assemblies of Member States and of the Unions, each as far as it is concerned, shall decide.

Financial period

Regulation 1.2

The financial period shall consist of two consecutive calendar years, the first of which shall be an even year.

Effective date

Regulation 1.3

These Regulations shall become effective on the first of January of the first year of the financial period following the date of adoption of the Regulations by the General Assembly.

CHAPTER 2: THE PROGRAM AND BUDGET

Authority and responsibility

Regulation 2.1

The proposed program and budget for each financial period shall be prepared by the Director General.

Regulation 2.2

The involvement of Member States in the preparation of the proposed program and budget for the next financial period shall be in accordance with the mechanism that they adopted in that respect.

Rule 102.1

Program Managers shall prepare program and budget proposals for the forthcoming financial period at such time and with such details as the Director General may prescribe.

Presentation, content and methodology

Regulation 2.3

The proposed program and budget shall cover estimates for income and expenditure for the financial period to which it relates, in a consolidated form for the Organization, as well as separately for each Union.

Regulation 2.4

All estimates of income and expenditure shall be presented in Swiss francs.

Regulation 2.5

The proposed program and budget shall be divided into programs. Proposed programs shall include a narrative setting out objectives and expected results during the biennium, together with financial and human resources required to achieve the objectives, expected results and benchmarks and indicators of achievement. The proposed program and budget shall be preceded by a statement explaining the content of the program and the volume of resources allocated to it in relation to the previous financial period. The proposed program and budget shall be

accompanied by such information, annexes and explanatory statements as may be requested by the General Assembly and the Assemblies of the Unions and such further annexes or statements as the Director General may deem necessary and useful.

Rule 102.2

The proposed program and budget shall contain:

- (a) A statement of financial and human resources requirements by proposed program and by nature of expenditure in a consolidated form for the Organization, as well as separately for each Union; for purposes of comparison, the expenditures for the previous financial period, the adopted initial budget and the proposed revised budget for the current financial period shall be indicated alongside the resource requirements estimates for the forthcoming financial period;
- (b) A statement of estimated income including income from contributions, fees for services rendered under the PCT, Madrid, Hague and Lisbon systems and income classified as miscellaneous in accordance with Regulation 3.13;
- (c) A statement of estimated demand for services under the PCT, Madrid, Hague and Lisbon systems, respectively;
- (d) A detailed organigram of the International Bureau including names of Directors and Program Managers.

Review and approval

Regulation 2.6

The Director General shall submit the proposed program and budget for the following financial period to the Program and Budget Committee for discussion, comments and recommendations, including possible amendments, by the first of July of the year preceding the financial period.

Regulation 2.7

The Program and Budget Committee shall review the program and budget proposed by the Director General and transmit it to the Assemblies of the Member States with its recommendations.

Regulation 2.8

The Assemblies of the Member States and of the Unions, each as far as it is concerned, shall adopt the program and budget for the following financial period after consideration of the proposed program and budget and the recommendations of the Program and Budget Committee thereon.

Publication of the approved program and budget

Rule 102.3

The Controller shall arrange for the publication of the program and budget as approved by the General Assembly.

Supplementary and revised budget requirements**Regulation 2.9**

Supplementary and revised program and budget proposals may be submitted by the Director General whenever necessary. However, no such proposals are required in respect of transfers within the limits set in Regulation 5.5 and of flexibility adjustments made in accordance with Regulation 5.6. For purposes of disclosure to Member States, all such transfers and/or adjustments shall, however, be reflected in supplementary and/or revised program and budget proposals, if and when these proposals are submitted by the Director General.

Regulation 2.10

(a) The supplementary and revised budget proposals shall reflect changes in the financial and human resources requirements associated with:

(i) activities which the Director General considers to be of the highest urgency and which could not have been foreseen at the time the initial program and budget proposals were prepared;

(ii) transfers of appropriations between programs under Regulation 5.5;

(iii) flexibility adjustments made in accordance with Regulation 5.6;

(iv) activities mentioned in earlier program and budget proposals as items for which later submissions would be made;

(v) inflation, mandatory salary scale adjustments, and currency fluctuations.

(b) The supplementary and revised budget proposals shall also provide:

(i) revised estimates of demand for services under the PCT, Madrid and Hague systems;

(ii) revised estimates of income, including from the above services, and miscellaneous income as defined in Regulation 3.13.

Supplementary and revised program and budget proposals: review and approval**Regulation 2.11**

The Director General shall prepare the supplementary and revised program and budget proposals in a form consistent with the approved budget and shall submit such proposals to the Program and Budget Committee. The Program and Budget Committee shall review the proposals and transmit them to the Assemblies of the Member States with its recommendations.

Rule 102.4

Program Managers shall prepare supplementary and revised program and budget proposals at such time and with such details as the Director General may prescribe.

Regulation 2.12

The Assemblies of the Member States and of the Unions, each as far as it is concerned, shall adopt the supplementary and/or revised program and budget proposals for the current financial period.

Unforeseen and extraordinary expenses**Regulation 2.13**

The General Assembly, and the Assemblies of the Unions, each as far as it is concerned, may adopt a decision to authorize the Director General to incur unforeseen and extraordinary expenses which cannot be met from existing appropriations up to such amounts and subject to such limits as included in the authorizing decision.

Rule 102.5

(a) Authorizations to incur commitments in accordance with the General Assembly decision, and that of the Assemblies of the Unions, each as far as it is concerned, for unforeseen and extraordinary expenses shall be issued by the Controller.

(b) The Controller shall prepare a report for presentation by the Director General to the General Assembly, and the Assemblies of the Unions, each as far as it is concerned, on the status of all commitments relating to unforeseen and extraordinary expenses.

Program and budget performance and evaluation**Regulation 2.14**

The Director General shall prepare a report on program performance, based on the program structure, results frameworks, benchmarks and indicators of achievement contained in the program and budget, in accordance with the mechanism adopted by the Member States in respect of their involvement in the preparation and follow up of the program and budget of the Organization.

Rule 102.6

Program Managers shall submit to the Director General such information and at such time as he or she shall prescribe for inclusion in the report on program performance.

Regulation 2.15

The Director General shall establish a system for planning, conducting and using evaluative information for decision making.

CHAPTER 3: FUNDS**Financing of appropriations****Regulation 3.1**

Appropriations shall be financed by contributions of Member States assessed under Regulations 3.2 and 3.3, fees derived from services provided by the Organization under the PCT, Madrid, Hague and Lisbon systems, miscellaneous income as referred to in Regulation 3.13 and such other means as the General Assembly shall decide.

A. ASSESSED CONTRIBUTIONS

Assessed contributions

Regulation 3.2

Contributions are assessed under a “class and unit” system by each State member of WIPO and/or of any of the contribution-financed Unions, according to the class to which the State belongs for the purpose of contributions.

Amount of assessed contribution

Regulation 3.3

The amount of the annual contribution of each State is the same whether the State is a member only of WIPO, or only of one or more Unions, or of both WIPO and one or more Unions. The amount of the annual contribution payable by each State in each class is calculated by multiplying the number of units of that class by the value, in Swiss francs, of one contribution unit. That value is fixed by the General Assembly meeting in joint session with the Assemblies of the contribution-financed Unions.

Request for payment of assessed contributions

Regulation 3.4

The Director General shall communicate, each year, to the States members of WIPO and/or of the contribution-financed Unions the amount of their contributions for the forthcoming year on the basis of the class to which they belong.

Payment of assessed contributions

Regulation 3.5

Contributions shall be considered as due and payable in full on the first day of the calendar year to which they relate. As of January 1 of the following calendar year, the unpaid balance of such contributions shall be considered to be one year in arrears.

Order of payment of assessed contributions

Regulation 3.6

Payments made by a Member State shall be credited first to the working capital funds and then to the contributions due in the order of the years for which they are due.

Status of payment of assessed contributions

Regulation 3.7

The Director General shall submit to the General Assembly at each ordinary session a report on the payment of contributions.

Assessed contributions from new Member States

Regulation 3.8

New Member States shall be required to pay their contributions from the year following that in which they became members.

Currency of assessed contributions

Regulation 3.9

Contributions shall be paid in Swiss francs.

B. FEES

Regulation 3.10

The level of the fees payable to the Organization for services rendered under the PCT, Madrid, Hague and Lisbon systems is determined by the Assembly of the corresponding Union.

C. VOLUNTARY CONTRIBUTIONS, GIFTS AND DONATIONS

Acceptance and purpose

Regulation 3.11

Voluntary contributions, gifts and donations, whether or not in cash, may be accepted by the Director General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Organization and provided that the acceptance of such contributions that directly or indirectly involve significant additional financial liability for the Organization shall require the consent of the General Assembly.

Regulation 3.12

Monies accepted for purposes specified by the donor shall be ~~treated as trust funds~~ *accounted for in special accounts*.

Authority and liability

Rule 103.1

- (a) In cases other than those approved by the General Assembly, the receipt of any voluntary contribution, gift or donation to be administered by the Organization requires the acceptance of the Controller on behalf of the Director General.
- (b) Voluntary contributions, gifts or donations which directly or indirectly involve additional financial liability for the Organization may be accepted only with the approval of the General Assembly.
- (c) Gifts or donations are to be defined and administered as voluntary contributions.

D. MISCELLANEOUS INCOME

Regulation 3.13

All income except:

- (a) Assessed contributions by Member States,
- (b) Fees derived for services provided by the Organization under the PCT, Madrid, Hague and Lisbon systems,
- (c) Direct refunds of expenditures made during the financial period,
- (d) Advances or deposits to funds,

shall be classed as miscellaneous income.

Regulation 3.14

Monies accepted in respect of which no purpose is specified shall be treated as miscellaneous income and reported as ~~gifts~~ in the accounts *financial management report* of the financial period.

Reimbursements of expenditures

Rule 103.2

- (a) Within the same financial period, reimbursements of actual expenditures incurred may be credited to the accounts against which they were originally charged; reimbursements of actual expenditures incurred in prior financial periods shall be credited as miscellaneous income.
- (b) Adjustments that arise subsequent to the closing of ~~an extrabudgetary account (i.e., a trust fund, a special account, project, etc.)~~ shall be debited or credited against miscellaneous income in ~~that selfsame account~~ *the regular budget*

E. RECEIPT OF FUNDS

Receipt and deposit

Rule 103.3

- (a) An official receipt shall be issued within two business days of receipt of all cash and negotiable instruments received.
- (b) Only officers designated by the Controller shall be authorized to issue official receipts. If other officers receive money intended for the Organization, they must immediately convey this money to an officer authorized to issue an official receipt.
- (c) All monies received shall be deposited in an official bank account within two business days of receipt.

CHAPTER 4: CUSTODY OF FUNDS

A. INTERNAL ACCOUNTS

General Fund

Regulation 4.1

There shall be established a general fund for the purpose of accounting for the expenditures of the Organization. The assessed contributions paid by Member States, fees derived from services provided by the Organization under the PCT, Madrid, Hague and Lisbon systems, miscellaneous income and any advances made from the working capital funds or reserve funds to finance general expenditure, shall be credited to this general fund.

Working capital funds

Regulation 4.2

The working capital funds of the Organization and of the Paris, Berne, Madrid, Hague, IPC, Nice, PCT, Lisbon, Locarno and Vienna Unions shall be established in amounts to be determined by the Assemblies of the Member States and of the Unions, each as far as it is concerned.

Regulation 4.3

The working capital funds shall be used, to the extent possible, as advances to finance budgetary appropriations that are not yet covered by available liquidity and for such other purposes as may be determined by the Assemblies of the Member States and of the Unions, each as far as it is concerned.

Regulation 4.4

Advances made from the working capital funds to finance budgetary appropriations shall be reimbursed to the working capital funds as soon as and to the extent that income is available for that purpose.

Trust funds and special accounts

Regulation 4.5

The purpose and limits of each trust fund and special account shall be clearly defined by the Director General. Such funds and special accounts shall be administered in accordance with the present Regulations.

Rule 104.1

The establishment, purpose and limits of trust funds and special accounts shall be approved on behalf of the Director General by the Controller. The Controller is authorized to levy a charge on trust funds and special accounts. This charge shall be used to reimburse all, or part of, the indirect costs incurred by the Organization in respect of the generation and administration of trust funds and special accounts. All direct costs of the implementation of programs that are financed by trust funds and special accounts shall be charged against the relevant trust fund and special account.

Surpluses and deficits; Reserve Funds

Regulation 4.6

The use, other than for the covering of any deficits, of any of the reserve funds is a matter for the decision of the General Assembly of WIPO or the Assembly of the Union concerned, as the case may be.

Regulation 4.7

If, after the ~~approval of the~~ *closure of the financial period* ~~final accounts~~, any Union shows a surplus of income, such surplus shall be ~~paid~~ *accounted for under* ~~into~~ the reserve funds, unless otherwise decided by the General Assembly or the Assembly of the Union concerned.

Regulation 4.8

If, after the *closure of the financial period* ~~approval of the final accounts~~, any Union shows a deficit, not coverable out of reserve funds, the General Assembly of WIPO or the Assemblies of the interested Unions, as the case may be, shall decide upon measures to redress the financial situation.

B. BANKING

Bank accounts, authority and policy

Regulation 4.9

The Director General shall designate, after competitive bidding or any other applicable procurement procedure, the bank or banks in which the funds of the Organization shall be kept.

Rule 104.2

The Controller shall designate the banks in which the funds of the Organization shall be kept, shall establish all official bank accounts required for the transaction of the Organization's business and shall designate those officers to whom signatory authority is delegated for the operation of those accounts. The Controller shall also authorize all bank account closures. The Organization's bank accounts shall be operated in accordance with the following guidelines:

- (a) Bank accounts shall be designated "official accounts of the World Intellectual Property Organization (WIPO)" and the relevant authority shall be notified that those accounts are exempt from all taxation.
- (b) Banks shall be required to provide promptly monthly statements.
- (c) Two signatures, or the electronic equivalent, shall be required on all checks and other withdrawal instructions, including electronic modes of payment.
- (d) All banks shall be required to recognize that the Controller is authorized to receive, upon request or as promptly as practicable, all information pertaining to official bank accounts of the Organization.

Bank signatories**Rule 104.3**

Bank signatory authority and responsibility is assigned on a personal basis and cannot be delegated. Bank signatories cannot exercise the approving functions assigned in accordance with Rule 105.7. Designated bank signatories must:

- (a) Ensure that there are sufficient funds in the bank account when checks and other payment instructions are presented for payment.
- (b) Verify that all checks and other payment instructions are dated and drawn to the order of the named payee approved by an approving officer (designated in accordance with Rule 105.7).
- (c) Ensure that checks and other banking instruments are properly safeguarded and that when they are obsolete they are destroyed in accordance with Rule 106.13.

Exchange of currencies**Rule 104.4**

Officers responsible for the operation of WIPO bank accounts shall proceed to exchange all payments received in currencies other than the Swiss franc into Swiss francs except when the other currencies are necessary for the transaction of official business of the Organization in the foreseeable future. Policies and procedures for exchange of currencies shall be established in detail through appropriate Office Instructions.

Remittances to liaison offices**Rule 104.5**

The liaison offices of the Organization shall obtain their funds through remittances from Headquarters. In the absence of a special authorization from the Controller, those remittances shall not exceed the amount required to bring cash balances up to the levels necessary to meet the recipient liaison office's estimated cash requirements for the next two and a half months.

Cash advances**Rule 104.6**

- (a) Petty cash advances and Cashier's Fund advances may be made only by and to officers designated for this purpose by the Controller.
- (b) The relevant accounts shall be maintained on an imprest system and the amount and purpose of each advance shall be defined by the Controller.
- (c) The Controller may approve other cash advances as may be permitted by the Financial Regulations and Rules and Financial Instructions issued by the Controller and as may otherwise be authorized in writing by him or her.

Rule 104.7

Officers to whom cash advances are issued shall be held personally accountable and financially liable for the proper management and safekeeping of cash so advanced and must be in a position to account for these advances at all times. They shall submit monthly accounts unless otherwise directed by the Controller.

Payments

Rule 104.8

(a) All payments shall be made by check, by wire transfer or by electronic funds transfer except to the extent that cash payments, or their equivalent, are authorized by the Controller.

(b) Payments shall be recorded in the accounts as at the date on which they are made, that is, when the check is issued, transfer is effected or cash, or its equivalent, is paid out.

(c) Except where a paid check is returned by the bank or a debit advice is received from the bank, a payee's written receipt shall be obtained for all payments.

Reconciliation of bank accounts

Rule 104.9

Every month all financial transactions, including bank charges and commissions, must be reconciled with the information submitted by banks in accordance with Rule 104.2. This reconciliation must be performed or validated by an officer playing no actual part in the receipt or payment of funds.

C. INVESTMENTS

Authority, responsibility and policy

Regulation 4.10

The Director General may make short-term investments of money not needed for immediate requirements in accordance with the Organization's investment policy, as approved by the Member States, and shall inform the Program and Budget Committee regularly of any such investments.

Regulation 4.11

The Director General may make long-term investments of monies standing to the credit of the Organization in accordance with the Organization's investment policy, as approved by the Member States, and shall inform the Program and Budget Committee regularly of any such investments. In this regard, the Director General may seek the advice of an Advisory Committee on Investments composed of members appointed by the Director General including from persons outside the Organization having substantial experience in the financial sector.

Rule 104.10

(a) The authority to make and prudently manage investments in accordance with the investment policy approved by the Member States under Regulations 4.10 and 4.11, is delegated to the Controller.

(b) The Controller shall ensure, including by establishing appropriate guidelines, that funds are held in such currencies and invested in such a way as to place primary emphasis on minimizing the risk to principal funds while ensuring the liquidity necessary to meet the Organization's cash-flow requirements. In addition to these criteria, investments as well as the currencies in which they are denominated shall be selected by the Controller on the basis of the investment policy approved by the Member States under Regulations 4.10 and 4.11.

Rule 104.11

Investments shall be recorded in a ledger which shall show all the relevant details for each investment, including, for example, face value, cost, date of maturity, place of deposit, proceeds of sale and income earned.

Rule 104.12

(a) All investments shall be made through and maintained by recognized financial institutions designated by the Controller.

(b) All investment transactions, including the withdrawal of invested resources, require the authorization and signature of two officers designated for that purpose by the Controller.

Income

Regulation 4.12

Income derived from short-term or long-term investments shall be accounted for, as required under the applicable accounting standards.

Losses

Rule 104.13

Any investment losses must be reported at once to the Controller. The Controller may authorize the writing-off of investment losses. A summary statement of investment losses, if any, shall be provided to the External Auditor within three months following the end of the financial period.

Regulation 4.13

Any proposal for external borrowing shall be submitted by the Director General, through the Program and Budget Committee, to the General Assembly for approval.

External borrowing

Rule 104.14

The Controller shall prepare all proposals for external borrowing which shall be submitted by the Director General, through the Program and Budget Committee, to the General Assembly, for its approval.

CHAPTER 5: UTILIZATION OF FUNDS

A. APPROPRIATIONS

Authorizations

Regulation 5.1

The appropriations approved by the Assemblies of the Member States and of the Unions, each as far as it is concerned, shall constitute an authorization to the Director General to incur obligations and make payments for the purposes for which the appropriations were approved and up to the amounts so approved, except as provided for in Regulations 5.5 and 5.6.

Available period

Regulation 5.2

Appropriations shall be available for obligation during the financial period to which they relate.

Regulation 5.3

~~Appropriations~~ *Expense accruals* shall remain available for twelve months following the end of the financial period to which they relate, to the extent that they are required to ~~discharge obligations~~ *cover payments* in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period *period*.

Regulation 5.4

At the end of the twelve-month period provided for in Regulation 5.3 above, any ~~unliquidated obligations~~ *expense accruals* of the financial period in question shall be cancelled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.

Transfers between appropriations

Regulation 5.5

The Director General may make transfers from one program of the program and budget to another for any given financial period, up to the limit 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 is higher, when such transfers are necessary to ensure the proper functioning of the services. All transfers arising in the first year of the financial period shall be reflected in the revised budget proposals. Those arising in the second year shall be reported to the next sessions of the Program and Budget Committee and the General Assembly.

{Flexibility adjustments}

{Regulation 5.6}

~~{Reserved}~~ *(a) In the implementation of the program and budget, the Director General shall have the flexibility to make upward or downward adjustments to the resources appropriated for the operations of the PCT, Madrid and Hague systems, and for WIPO programs providing administrative support to these operations.*

(b) These adjustments shall be made in accordance with the methodology and formula(e) approved by the respective assemblies of the PCT, Madrid and Hague Unions, and presented in the proposed program and budget for the relevant financial period.

Commitments against appropriations for future financial periods

Regulation 5.7

The Director General may enter into commitments for future financial periods, provided that such commitments:

- (a) are for activities which have been approved by the General Assembly and are expected to continue beyond the end of the current financial period; or
- (b) are authorized by specific decisions of the General Assembly.

Rule 105.1

In accordance with Regulation 5.7 above, the authority to approve commitments against future financial periods is delegated to the Controller. The Controller shall maintain a record in the accounts of all such commitments (Rule 106.7), which shall constitute the first charges against relevant appropriations once they are approved by the General Assembly.

Administration of appropriations

Regulation 5.8

The Director General shall:

- (a) Establish, with the advice of the Program and Budget Committee, the financial rules of the Organization in order to ensure effective and efficient financial management and the exercise of economy.
- (b) Cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods to be paid for have been received and that payments have not previously been made.
- (c) Designate the officers who may receive monies, incur obligations and make payments on behalf of the Organization.
- (d) Maintain an internal financial control which shall provide for an effective current examination and/or review of financial transactions in order to ensure:
 - (i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Organization;

- (ii) the conformity of obligations and expenditures with the appropriations or other financial provisions approved by the General Assembly or with the purposes and rules relating to specific trust funds;
- (iii) the effective, efficient and economic use of the resources of the Organization.

B. COMMITMENTS, OBLIGATIONS AND EXPENDITURES

Authority and responsibility

Regulation 5.9

Obligations for the current financial period or commitments for current and future financial periods shall be incurred only after allocations or other appropriate authorizations have been made in writing under the authority of the Director General.

Rule 105.2

The utilization of all funds requires the prior authorization of the Controller. The Controller may determine the maximum amount of the appropriations that it would be prudent to make available for allocation taking into account the prospects of payment of assessed contributions, the likely level of income from fees, or any other relevant factors.

Rule 105.3

Authorizations from the Controller may take the form of:

- (a) An allocation of funds or other authorization issued to a Program Manager to plan activities and to initiate action to commit, obligate and expend specified funds for specified purposes during a specified period.
- (b) A staffing table authorization issued jointly to a Program Manager and the Director of the Human Resources Management Department (HRMD) to enable the Director of HRMD to fill authorized posts based on requests initiated by the Program Manager.

Checks and balances

Rule 105.4

Notwithstanding bank signatory functions assigned in accordance with Rule 104.3, all commitments, obligations and expenditures require at least two ~~signatures~~*approvals*, in either conventional or electronic form, as detailed in Rules 105.5 and 105.6 below.

Program Managers

Rule 105.5

- (a) Program Managers are responsible for planning, initiating and managing the effective and efficient utilization of resources as approved by the Member States and within the amount allocated by the Controller for the purposes covered by the approval of the Member States for the relevant program. In particular, they are accountable for the delivery of expected results indicated in the approved program and budget or, in the case of

extrabudgetary resources, the relevant approval. However, *pre-encumbrances*, obligations and expenditures initiated by Program Managers shall be reviewed for compliance with relevant policies and procedures, by appropriate officers designated by the Controller (“certifying officers”) as per Rule 105.6 below.

(b) Program Managers are designated by the Director General on a personal basis. However, a Program Manager should designate an alternate[s].

Certifying officers

Rule 105.6

(a) Certifying officers are responsible for ensuring that the utilization of resources proposed by Program Managers, including posts, is in compliance with the Financial Regulations and Rules, the Staff Regulations and Rules of the Organization and the Office Instructions issued by the Director General.

(b) Certifying officers are designated by the Controller. Certifying authority and responsibility is assigned on a personal basis and cannot be delegated. A certifying officer cannot exercise the approving functions assigned in accordance with Rule 105.7.

Approving officers

Rule 105.7

(a) Approving officers are responsible for approving the making of payments once they have ensured that they are properly due, confirming that the necessary services, supplies or equipment have been received in accordance with the contract, agreement, purchase order or other form of undertaking by which they were ordered. Approving officers must maintain detailed records and must be prepared to submit any supporting documents, explanations and justifications requested by the Controller.

(b) Approving officers are designated by the Controller.

(c) Approving authority and responsibility is assigned on a personal basis and cannot be delegated. An approving officer cannot exercise the certifying functions assigned in accordance with Rule 105.6 or the bank signatory functions assigned in accordance with Rule 104.3.

Establishment and amendment of obligations**Rule 105.8**

(a) Apart from the employment of staff against an authorized staffing table and consequential commitments under the Staff Regulations and Rules, no undertaking, including by contract, agreement or purchase order shall be entered into until the appropriate credit(s) has (have) been reserved in the accounts (“pre-encumbrance”). This shall be done through the recording of commitments against which obligations shall be recorded. Relevant payments or disbursements against duly recorded obligations shall be recorded as expenditure. An obligation shall be recorded in the accounts as ~~unliquidated~~ *accrued* during the period set forth in Regulation 5.3 *if the goods have been received or services rendered* and, until such point as it is ~~reobligated~~, liquidated or cancelled in accordance with Regulation 5.4, ~~as appropriate~~.

(b) The Controller may establish a threshold below which pre-encumbrance shall not be required.

(c) The Controller shall establish appropriate procedures to be followed in cases where the cost of relevant goods or services has, for whatever reason, increased in the time that elapses between the establishment of an obligation and the processing of final payment.

Review, reobligation and cancellation of obligations**Rule 105.9**

(a) Outstanding obligations must be reviewed periodically by the responsible Program Manager. If an obligation is determined to be valid but cannot be liquidated during the period set forth in Regulation 5.3, the provisions of Regulation 5.4 shall, as appropriate, be applied. Obligations that are no longer valid shall be reduced or cancelled from the accounts accordingly.

(b) When any obligation previously recorded in the accounts is, for any reason, reduced (other than by payment) or cancelled, the certifying officer shall accordingly ensure that appropriate adjustments are recorded in the accounts.

Obligating documents**Rule 105.10**

An obligation must be based on a formal contract, agreement, purchase order or other form of undertaking, or on a liability recognized by the Organization. All obligations must be supported by an appropriate obligating document.

Ex gratia* payments*Regulation 5.10**

The Director General may make such *ex gratia* payments as are deemed to be necessary in the interest of the Organization, provided that a summary statement of such payments shall be included in the financial statements of the Organization. The total amount of such payments shall not exceed 20,000 Swiss francs in any given financial period.

Rule 105.11

Ex gratia payments may be made in cases where, although in the opinion of the Legal Counsel there is no clear legal liability on the part of the Organization, the moral obligation is such as to make payment desirable, in the interest of the Organization. A summary statement of all *ex gratia* payments shall be included in the financial statements of the Organization. The approval of the Controller is required for all *ex gratia* payments.

C. PROCUREMENT

General principles

Regulation 5.11

Procurement functions include all actions necessary for the acquisition, by purchase, lease, or any other appropriate means, of property, including products and real property, and for the acquisition of services, including building works. For the purposes of the present Regulations, procurement shall not be deemed to refer to the acquisition of services provided under employment contracts and to services provided under external non-commercial consultancy contracts. The following general principles shall be given due consideration:

- (a) Best value for money.
- (b) Effective and broad competition for the award of contracts.
- (c) Fairness, integrity and transparency of the procurement process.
- (d) The best interests of the Organization.
- (e) Prudent commercial practices.
- (f) Acquisitions of goods and/or services shall be made on the basis of a formal contract award procedure. Methods of solicitation may be formal and/or informal.
- (g) Solicitations shall be invited by advertisement unless otherwise prescribed.

Authority and responsibility

Rule 105.12

(a) The Director General shall designate a ~~Deputy Director General~~ **High Level Official** (hereinafter referred to as “the ~~Deputy Director General~~ **High Level Official** in charge of Procurement” (“**HLOP**”)) responsible for the procurement functions of the Organization, subject to the provisions of Rules 105.6, 105.8, 105.9 and 105.10 concerning the incurrence of financial obligations.

(b) The Director General shall establish the composition and terms of reference of a Contracts Review Committee (hereinafter referred to as the “CRC”). The CRC shall render written advice to the ~~Deputy Director General in charge of Procurement~~ **HLOP** on the procurement actions leading to the award, modification or renewal of procurement contracts. The terms of reference of the CRC shall include the definition of the types and monetary values of the procurement actions that shall be subject to its review.

(c) Where the advice of the CRC is required, no final action leading to the award, modification or renewal of a procurement contract may be taken before such advice is

received. In cases where the ~~Deputy Director General in charge of Procurement~~**HLOP** decides not to accept the advice of the CRC, he or she shall record in writing the reasons for this decision.

(d) The Director General may, in exceptional cases, and when special guarantees and/or external expertise are required, establish an external and independent *ad hoc* Committee. The Director General shall establish the composition and terms of reference of such *ad hoc* Committee and decide whether it may adopt recommendations and/or decisions. Where the recommendation and/or decision of such an *ad hoc* Committee is required, no final action leading to the award, modification or renewal of a procurement contract may be taken before such recommendation/decision is received by the competent authority within the Organization.

Cooperation

Rule 105.13

The Organization may cooperate with other organizations of the United Nations system to meet its procurement requirements by entering into agreements for such purposes as appropriate. Such cooperation may include the carrying out of common procurement actions, or the Organization entering into a contract relying on a procurement decision of another specialized agency of the United Nations, or the Organization requesting another specialized agency of the United Nations to carry out procurement activities on its behalf.

Procurement process

Rule 105.14

Procurement contracts shall be awarded to eligible suppliers on the basis of the general principles described in Regulation 5.11 above. The competitive process, when applicable, shall include:

- (a) Identification of potential eligible suppliers.
- (b) Formal methods of solicitation, by means of invitations to bid or requests for proposals on the basis of advertisement or direct solicitation of invited suppliers, or informal methods of solicitation such as requests for quotations (RFQ).
- (c) Objective and transparent pre-established criteria for the evaluation of tenders.

Rule 105.15

Applicable procedures shall be determined on the basis of the estimated amount of the financial obligation for the Organization and the nature of the requirement.

Rule 105.16

(a) An obligation can result from a single requisition, or a series of related requisitions received and processed during the contract term or the calendar year, and includes all contracts and/or purchase orders for the acquisition of goods or services. The ~~Deputy Director General in charge of Procurement~~**HLOP**, or the officers to whom he or she will delegate the related authority, shall identify whether requisitions are related and shall take the appropriate procurement action.

(b) For contracts without a fixed term or subject to renewal, the value of the obligation shall be determined on the basis of a deemed contract duration of three years.

Rule 105.17

The ~~Deputy Director General in charge of Procurement~~**HLOP** shall establish, through administrative instruction, the thresholds for (i) direct purchase; (ii) the informal RFQ procedure; (iii) limited tenders; and (iv) open international tenders. He or she shall also establish the threshold above which the advice of the CRC must be sought.

Rule 105.18

The ~~Deputy Director General in charge of Procurement~~**HLOP**, with the advice of the CRC, where necessary, may determine that using formal or informal methods of solicitation is not in the best interests of the Organization for a particular procurement action when:

- (a) There is no competitive marketplace for the requirement, such as where a monopoly exists; prices are fixed by legislation or government principle; or the requirement involves a proprietary product or service.
- (b) The requirement needs to be standardized.
- (c) The proposed procurement contract is the result of cooperation with other organizations of the United Nations system, pursuant to Rule 105.13 above.
- (d) Offers for identical products and services have been obtained competitively within a reasonable period and the prices and conditions offered are considered to remain competitive.
- (e) Within a reasonable prior period, a formal solicitation for identical products and services has not produced satisfactory results.
- (f) The proposed procurement contract is for the purchase or lease of real property and market conditions do not allow for effective competition.
- (g) There is an emergency which necessitates immediate action.
- (h) The proposed procurement contract relates to obtaining services that cannot be evaluated objectively.
- (i) The ~~Deputy Director General in charge of Procurement~~**HLOP** otherwise determines that a formal or informal solicitation will not give satisfactory results.

Rule 105.19

When a determination is made pursuant to Rule 105.18 above, the ~~Deputy Director General in charge of Procurement~~**HLOP** shall record the reasons in writing and may then award a procurement contract, on the basis of a directly negotiated contract, to a qualified vendor whose offer substantially conforms with the requirement at an acceptable price.

Evaluation

Rule 105.20

All offers shall be evaluated on the basis of objective selection criteria in accordance with the present Financial Rules and the general principles and framework enunciated in Regulation 5.11 above.

Rule 105.21

The ~~Deputy Director General in charge of Procurement~~**HLOP** shall establish, through administrative instruction, principles and detailed procedures for the award of procurement contracts and/or purchase orders in respect of each form of tender procedure. For the open international tender procedure, the ~~Deputy Director General in charge of Procurement~~**HLOP** shall establish an Evaluation Team.

Contracts

Rule 105.22

All procurement actions shall be governed by written documentation. When written contracts are used, they shall specify at least the following information (where applicable):

- (a) Nature of the products or services being procured;
- (b) Quantity being procured;
- (c) Contract or unit price;
- (d) Duration of the contract;
- (e) Conditions to be fulfilled by the supplier including general conditions for procurement contracts, appropriate sanctions, remedies and guarantee clauses;
- (f) Terms of delivery and means of payment;
- (g) Name and address of the supplier;
- (h) Bank details for payment.

Rule 105.23

The requirement for the written form of procurement contracts, when applicable, shall not be interpreted to restrict the use of electronic means by parties to meet their respective contractual obligations. Before any electronic means is used by either party, the ~~Deputy Director General in charge of Procurement~~**HLOP** shall ensure that the electronic means to be used meet recognized industry standards, in particular in terms of authentication, safety and confidentiality.

Payments

Rule 105.24

Except where normal commercial practice or the interests of the Organization so require, no contract or other form of undertaking shall be made on behalf of the Organization which requires a payment or payments on account, in advance of the delivery of products or the

performance of services. Whenever an advance payment is agreed to, the reasons therefor shall be recorded.

Rule 105.25

The ~~Deputy Director General in charge of Procurement~~*HLOP* shall also require that whenever it is possible and/or appropriate, sufficient guarantees be sought and obtained prior to any advance and progress payment being made.

Confidentiality

Rule 105.26

Throughout the tender process and until the results of that process are announced, no information about offers or the evaluation process may be divulged to any individual other than those directly involved in the evaluation process, such as responsible members of the Organization's staff and employees or authorized external consultants.

Standards of conduct

Rule 105.27

Officers of the Organization involved in a procurement action shall disclose, in advance, any possible conflict of interest that may arise in the course of carrying out their duties. Failure to do so may result in appropriate disciplinary action or other appropriate civil and/or criminal action.

Rule 105.28

All officers of the Organization who are involved in a procurement action must observe the terms of the Staff Regulations and Staff Rules and the Standards of Conduct applicable to International Civil Servants, in particular the WIPO Staff Regulations and Rules on confidentiality, without prejudice to employees' obligation to report waste, fraud or abuse.

D. PROPERTY MANAGEMENT

Authority and responsibility

Rule 105.29

(a) The ~~Deputy Director General in charge of Procurement~~*HLOP* shall designate the officers responsible for the management of the property of the Organization, and for all systems governing its receipt, recording, utilization, safekeeping, maintenance and disposal, including by sale.

(b) A summary statement of non-expendable property of the Organization shall be provided to the External Auditor not later than three months following the end of *each year of* the financial period.

Property Survey Board

Rule 105.30

(a) The ~~Deputy Director General in charge of Procurement~~*HLOP* shall establish a Property Survey Board to render written advice to him or her in respect of loss, damage or

other discrepancy regarding the property of the Organization. The ~~Deputy Director General in charge of Procurement~~ *HLOP* shall establish the composition and terms of reference of such board, which shall include procedures for determining the cause of such loss, damage or other discrepancy, the disposal action to be taken in accordance with Rules 105.31 and 105.32 and the degree of responsibility, if any, attaching to any employee of the Organization or other party for such loss, damage or other discrepancy.

(b) Where the advice of the Property Survey Board is required, no final action in respect of WIPO's property loss, damage or other discrepancy may be taken before such advice is received. In cases where the ~~Deputy Director General in charge of Procurement~~ *HLOP* decides not to accept the advice of the Board, he or she shall record in writing the reasons for that decision.

Sale/disposal of property

Rule 105.31

Sales of supplies, equipment or other property declared surplus or unserviceable shall be based on competitive bidding, unless the Property Survey Board:

- (a) Estimates that the sales value is less than an amount to be specified by the Controller.
- (b) Considers that the exchange of property in partial or full payment for replacement equipment or supplies is in the best interest of the Organization.
- (c) Determines that the destruction of the surplus or unserviceable material will be more economical or is required by law or by the nature of the property.
- (d) Determines that the interests of the Organization will be served through the disposal of the property by gift or by sale at a nominal price to an intergovernmental organization, a Government or governmental agency or some other non-profit organization.

Rule 105.32

Except as provided for in Rule 105.31, property shall be sold on the basis of payments made on or before delivery.

CHAPTER 6: ACCOUNTING

Principal accounts

Regulation 6.1

The Director General shall ~~submit accounts for the financial period. In addition, he or she shall maintain and safeguard against damage, destruction, unauthorized access and removal, such accounting records as are necessary for management purposes, including interim accounts for the first calendar year of the financial period.~~ *The Director General shall prepare financial statements for both years of the financial period, which shall show* ~~Both the interim accounts and the accounts for the financial period shall show:~~

- (a) The income and expenditures of all funds.

- (b) The status of appropriations, including:
 - (i) the original budget appropriation;
 - (ii) the appropriation as modified by any transfers made by the Director General under Regulation 5.5;
 - (iii) increases or decreases arising from the flexibility adjustments under Regulation 5.6;
 - (iv) credits, if any, other than the appropriations approved by the General Assembly;
 - (v) the amounts charged against those appropriations and/or other credits.
- (c) The assets and liabilities of the Organization.

The Director General shall also give such other information as may be appropriate to indicate the current financial position of the Organization.

Regulation 6.2

Appropriate separate accounts shall be maintained for all trust ~~funds~~ and reserve *funds* and special accounts.

Rule 106.1

In accordance with Regulations 6.1 and 6.2, the principal accounts of the Organization shall include detailed, comprehensive and up-to-date records of assets and liabilities for all ~~sources of funds~~. The principal accounts shall consist of:

- (a) Program and budget accounts showing:
 - (i) original appropriations;
 - (ii) appropriations as modified by transfers;
 - (iii) increases or decreases arising from the flexibility adjustments under Regulation 5.6;
 - (iv) credits (other than appropriations made available by the General Assembly);
 - (v) expenditures, including ~~payments and other disbursements and unliquidated obligations~~ *expense accruals*;
 - (vi) ~~unencumbered~~ balances of allocations and appropriations.
- (b) General ledger accounts showing all cash at banks, investments, receivables and other assets, payables and other liabilities.
- (c) Reserve funds, working capital funds and all trust funds and other special accounts.

Authority and responsibility

Rule 106.2

The Controller shall be responsible for the organization and proper working of all WIPO accounting systems and designate the officers responsible for performing accounting functions.

Accounting standards

Rule 106.3

Unless otherwise directed by the Controller or by the particular terms governing the operation of a trust fund or special account, all financial transactions shall be recorded in the accounts on an accrual basis in compliance with the accounting standards applicable to the United Nations System.

Currency of accounting records

Regulation 6.3

The *financial statements and the financial management reports* ~~accounts of~~ of the Organization shall be presented in Swiss francs. Accounting records may, however, be kept in such currency or currencies as the Director General may deem necessary.

Rule 106.4

Except where authorized by the Controller, accounts shall be maintained in Swiss francs. At Liaison Offices, accounts may be maintained in the currency of the country in which they are situated, provided that all amounts are recorded both in local currency and the Swiss franc equivalent.

Accounting for exchange rate fluctuations

Rule 106.5

(a) The Controller shall establish the operational rates of exchange between the Swiss franc and other currencies which shall be derived from the operational rates of exchange of the United Nations. The said operational rates of exchange shall be used for recording all WIPO transactions.

(b) Payments in currencies other than the Swiss franc will be determined in Swiss francs on the basis of the operational rate of exchange prevailing at the time of payment. Any difference between the actual amount received on exchange and the amount that would have been obtained at the operational rate of exchange shall be accounted for as loss or gain on exchange.

~~(c) When closing the final accounts for a financial period, any negative balance on the account for "loss or gain on exchange" shall be debited to the relevant budget account, while any positive balance shall be credited to miscellaneous income.~~

Accounting for proceeds from the sale of property

Rule 106.6

The proceeds from the sale of property shall be credited as miscellaneous income except:

- (a) Where a Property Survey Board has recommended the application of these proceeds directly against the purchase price of replacement equipment or supplies (any balance shall be taken into account as miscellaneous income).
- (b) When the trade-in of property is not considered to be a sale and the allowance shall be applied against the cost of the replacement property.
- (c) Where normal practice is to secure and use certain material or equipment in connection with a contract and to salvage and sell such material or equipment at a later stage.
- (d) When the proceeds from the sale of surplus project equipment shall be credited to the accounts of that project, provided that ~~they have~~*the project has* not been closed.

Accounting for commitments against future financial periods

Rule 106.7

Obligations established prior to the financial period to which they pertain, pursuant to Regulation 5.7 and Rule 105.1, shall be *disclosed in the financial statements*~~recorded against a deferred charge account. Deferred charges shall be transferred to the appropriate account when the necessary appropriations and funds become available.~~

Writing off losses of cash, receivables and property

Regulation 6.4

The Director General may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off *for the financial period* shall be submitted to the External Auditor with the ~~accounts~~*financial statements*.

Rule 106.8

- (a) The Controller may, after full investigation, authorize the writing-off of losses of cash and the book value of accounts and notes receivable deemed to be irrecoverable. A summary statement of losses of cash and receivables shall be provided to the External Auditor not later than three months following the end of the financial period.
- (b) The investigation shall in each case fix the responsibility, if any, attaching to any officer(s) of the Organization for the loss or losses. Such officer(s) may be required to reimburse the Organization either partially or in full. Final determination as to all surcharges to be made against such officer(s) as the result of losses will be made by the Controller.

Rule 106.9

- (a) The Controller may, after full investigation, authorize the writing-off of losses of WIPO property and adjust the records in order to bring the balance shown into conformity with actual physical property. A summary statement of losses of non-expendable property

shall likewise be provided to the External Auditor not later than three months following the end of the financial period.

(b) The investigation shall in each case fix the responsibility, if any, attaching to any officer(s) of the Organization for the loss or losses. Such officer(s) may be required to reimburse the Organization either partially or in full. The final determination as to all surcharges to be made against such officer(s) as the result of losses will be made by the Controller.

Direct and indirect expenses

Rule 106.10

(a) Any expenditure which is incurred in the exclusive interest of a given Union shall be considered as a “direct expense” of that Union.

(b) Any other expenditure which is incurred to implement the program and budget approved by the Assemblies of the Member States shall be considered as an “indirect” expense.”

(c) The financial *management report*—statements of the Organization shall ~~allow~~ *provide* a clear distinction between direct and indirect expenses.

Financial statements

Regulation 6.5

The ~~accounts~~ *financial statements* for *both years* of the financial period shall be submitted by the Director General to the External Auditor and the Audit Committee no later than March 31 following the end of *each year* of the financial period. *Final financial statements covering both years of the financial period shall be submitted to the External Auditor and the Audit Committee not later than April 30 following the end of the financial period.*

Rule 106.11

(a) For all accounts of the Organization, ~~interim~~—financial statements covering ~~the first~~ *each* year of the financial period, as at December 31, shall be submitted to the External Auditor and the Audit Committee not later than March 31 of the following year. For the same accounts, final financial statements covering both years of the financial period, likewise as at December 31, shall be submitted to the External Auditor and the Audit Committee not later than ~~March 31~~ *April 30* following the end of the financial period. Copies of financial statements shall also be transmitted to the Program and Budget Committee. Additional financial statements may be prepared as and when the Controller deems it necessary.

(b) Financial statements submitted to the External Auditor and the Audit Committee for all accounts shall include:

- (i) a statement of income, expenditures and changes in reserves and fund balances;
- (ii) a statement of assets, liabilities, reserves and fund balances;
- (iii) a statement of cash flows;
- (iv) such other schedules as may be required;

- (v) notes to the financial statements.

Regulation 6.6

Within five months after the end of each financial period, the Director General shall prepare the financial management report for that financial period. That report shall include the ~~statements of account, the balance sheet,~~ *financial statements covering the financial period, statement of budget and actual income and expenditure for the financial period reported on the same basis as the adopted budget in accordance with Regulation 6.1*, a report on investments and a statement on the *status of* contributions of the Member States.

Rule 106.12

The Controller shall prepare the financial management report in accordance with Regulation 6.3.

Regulation 6.7

After audit, the *annual* financial *statements, financial* management report and the report of the External Auditor shall be transmitted to all the interested States.

Rule 106.13

Accounting records, other financial and property records and all supporting documents shall be retained for such periods as may be agreed with the External Auditor, after which, on the authority of the Controller, they may be destroyed.

CHAPTER 7: INTERNAL AUDIT CHARTER

Internal Audit Charter

Regulation 7.1

There shall be an Internal Audit and Oversight Division (IAOD) to conduct independent internal audit, inspections and investigations in accordance with the provisions of the WIPO Internal Audit Charter appended to the present Financial Regulations (Annex I).

CHAPTER 8: EXTERNAL AUDITOR

Appointment of the External Auditor

Regulation 8.1

The External Auditor, who shall be the Auditor General (or officer holding the equivalent title) of a Member State, shall be appointed by the General Assembly, in the manner decided by the Assembly.

Tenure of office of the External Auditor

Regulation 8.2

The External Auditor shall be appointed for a term of office of six years non renewable consecutively.

Regulation 8.3

If the External Auditor ceases to hold office as Auditor-General (or equivalent title) in his or her own country, his or her tenure of office shall thereupon be terminated and he or she shall be succeeded as External Auditor by his or her successor as Auditor-General. The External Auditor may not otherwise be removed during his or her tenure of office except by the General Assembly.

Audit standards, scope and operations**Regulation 8.4**

The audit shall be conducted in conformity with generally accepted common international auditing standards and, subject to any special directions of the General Assembly, in accordance with the terms of reference set out in the annex to the present Regulations (Annex II).

Regulation 8.5

The External Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Organization.

Regulation 8.6

The External Auditor shall be completely independent and solely responsible for the conduct of the audit.

Regulation 8.7

The General Assembly may request the External Auditor to perform certain specific examinations and issue separate reports on the results.

Facilities**Regulation 8.8**

The Director General shall provide the External Auditor with the facilities they may require in the performance of the audit.

Special examination**Regulation 8.9**

For the purpose of making a local or special examination or of effecting economies in the audit cost, the External Auditor may engage the services of any national Auditor-General (or officer holding the equivalent title) or commercial public auditors of known repute or any other person or firm which, in the opinion of the External Auditor, is technically qualified.

Reporting**Regulation 8.10**

The External Auditor shall issue *an opinion on the financial statements for each year of the financial period, and a* report on the audit of the financial statements ~~relating to the accounts for~~ the financial period, which shall include such information as the External Auditor deems necessary with regard to matters referred to in Regulation 8.5 and in the annex to the present Regulations referred to in Regulation 8.4.

Regulation 8.11

The reports of the External Auditor shall be transmitted to the General Assembly through the Program and Budget Committee, together with the audited financial statements, in accordance with any directions given by the General Assembly. The Program and Budget Committee shall examine the financial statements and the audit reports and shall forward them to the General Assembly with such comments and recommendations as it deems appropriate.

CHAPTER 9: AUDIT COMMITTEE

Regulation 9.1

There shall be an Audit Committee to assist Member States in their role of oversight and for better exercise of their governance responsibilities with respect to the various operations of WIPO. The Audit Committee shall operate as an independent, expert advisory and external oversight body. The General Assembly shall approve the WIPO Audit Committee's terms of reference upon recommendation by the Program and Budget Committee. These terms of reference shall be appended to the present Financial Regulations (Annex III).

CHAPTER 10: FINAL PROVISIONS

Amendment

Regulation 10.1

The Director General may propose amendments to these Regulations. Any such amendment to these Regulations must be approved by the General Assembly.

Rule 110.1

The present Rules may be amended by the Director General in a manner consistent with the Financial Regulations.

[Annexes follow]

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