

## **WIPO General Assembly**

**Forty-Third (21<sup>st</sup> Ordinary) Session**  
**Geneva, September 23 to October 2, 2013**

### REPORT BY THE EXTERNAL AUDITOR

*prepared by the Secretariat*

1. The present document contains the Report of the External Auditor (document WO/PBC/21/6), which is being submitted to the WIPO Program and Budget Committee (PBC) at its twenty-first session (September 9 to 13, 2013).
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 Twenty-First Session held from September 9 to 13, 2013" (document A/51/14).
3. *The WIPO General Assembly is invited to take note of the contents of this document, taking into consideration any recommendation of the Program and Budget Committee made in this respect, as recorded in document A/51/14.*

[Document WO/PBC/21/6 follows]

## **Program and Budget Committee**

**Twenty-First Session**  
**Geneva, September 9 to 13, 2013**

### REPORT BY THE EXTERNAL AUDITOR

*prepared by the Secretariat*

1. This document comprises the following items:
  - (i) The Independent Auditor's report which contains the opinion of the External Auditor on the financial statements of the World Intellectual Property Organization (WIPO) for the year ended 31 December 2012;
  - (ii) Report of the External Auditor for the financial year 2012 to the 51<sup>st</sup> session of the General Assembly of WIPO (also known as the "long form report"). This report contains the External Auditor's principle recommendations arising from the three audits undertaken during the year 2012/13;

- (iii) Responses from the Secretariat of WIPO to the recommendations of the External Auditor;
- (iv) WIPO's Statement of Internal Control, signed by the Director General.

*2. The Program and Budget Committee is invited to recommend to the WIPO General Assembly to take note of the contents of this document*

[Reports of the External Auditor and the response of the Secretariat follow]

## **INDEPENDENT AUDITOR'S REPORT**

**To**  
**The General Assembly**  
**The World Intellectual Property Organisation**

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the World Intellectual Property Organisation (WIPO), which comprise the statement of financial position as at 31 December 2012, the statement of financial performance for the year ended 2012, statement of changes in net assets, statement of cash flows, statement of comparison of budget and actual amounts, notes to the financial statements and other explanatory notes.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the International Public Sector Accounting Standards (IPSAS). This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

**Contd....p/2**

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with the International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance as to whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, these financial statements present fairly, in all material respects, the financial position of the World Intellectual Property Organisation as at 31 December

**Contd...p/3**

2012, and its financial performance and of its cash flows for the period 1 January 2012 to 31 December 2012.

### **Report on Other Legal and Regulatory Requirements**

Further, in our opinion, the transactions of the World Intellectual Property Organisation that have come to our notice or which we have tested as part of our audit have, in all significant respects, been in accordance with the WIPO Financial Regulations and Rules.

In accordance with Regulation 8.10 of the Financial Regulations and Rules, we have also issued a long-form Report on our audit of the World Intellectual Property Organisation.



**Shashi Kant Sharma**  
**Comptroller and Auditor General of India**  
**External Auditor**

**New Delhi, India**  
**29 July 2013**



**OFFICE OF THE  
COMPTROLLER AND  
AUDITOR GENERAL OF  
INDIA**

Our audit aims to provide independent assurance and to add value to the Management of World Intellectual Property Organization by making constructive recommendations.

For further information please contact:

Mr. Rajesh Singh,  
Principal Director of Audit  
Indian Audit Office  
High Commission of India  
Aldwych, London-  
WC2B4NA  
E mail:  
rajeshSingh@cag.gov.in

**REPORT OF THE EXTERNAL AUDITOR  
FOR THE FINANCIAL YEAR 2012  
TO THE 51<sup>st</sup> SESSION  
OF THE GENERAL ASSEMBLY  
OF THE WORLD INTELLECTUAL  
PROPERTY ORGANIZATION**

<b>Contents</b>	<b>Page No.</b>
<b>Executive summary</b>	<b>1</b>
<b>Summary of recommendations</b>	<b>3</b>
<b>Introduction</b>	<b>5</b>
<b>Audit Findings</b>	
<b>A. Financial Matters</b>	<b>5</b>
<b>B. Special Service Agreements and Commercial Service Providers</b>	<b>8</b>
<b>C. Patents Cooperation Treaty</b>	<b>12</b>
<b>D. Cases of fraud, presumptive frauds and write offs</b>	<b>14</b>
<b>E. Review of management action on past recommendations</b>	<b>15</b>
<b>F. Write off of losses of cash, receivables and property</b>	<b>15</b>
<b>Acknowledgment</b>	<b>15</b>
<b>Annexure</b>	<b>16</b>

## Executive Summary

This report presents the significant findings of the Comptroller and Auditor General of India's audit of the World Intellectual Property Organisation (WIPO) for the financial year 2012. The audit included audit of the financial statements of WIPO; performance audit of the Patent Cooperation Treaty (PCT); and compliance audit of 'Sourcing and engagement of Special Service Agreements (SSAs) and Commercial Service Providers (CSPs)'.

### Overall Audit Opinion on Financial Statements

On the basis of our audit, I am of the opinion that the financial statements for the financial period ended 31 December 2012 present fairly in all material respects the financial position of WIPO as on 31 December 2012 and of its financial performance during the period from 1 January 2012 to 31 December 2012. Accordingly, we have placed an unqualified audit opinion on the WIPO's financial statements for the financial period ended 31 December 2012.

### Financial Management

During our audit, on the basis of our observations, the Management made improvements to the Financial Statements and Notes thereto. These are elucidated in the report.

WIPO did not have a Treasury and Cash Management policy. There were instances of bank accounts being opened without approval of the Controller.

Interest paid on borrowings and the commitment charges were significantly higher than the return on investment of the organization.

Assets each with a value over Swiss francs 5000, constitute only 14.46 *per cent* of the total number of items in physical numbers but 59 *per cent* in terms of financial value of the total assets. We therefore recommended annual physical verification of high value assets instead of a biennial policy for inventory tracking and recording assets.

### Special Service Agreements

The regulatory framework for acquisition of services through SSAs was inadequate. Competitive sourcing was completely absent in the process of acquisition of services through SSAs.

We appreciate that WIPO has agreed to work towards closing this gap through a policy 'WIPO General Policy Framework on non-staff contracts', which will be published and implemented as Office Instruction.



### **Commercial Service Providers**

Inconsistencies were noticed between the evaluation criteria published in the tender documents and the criteria used in the evaluation matrix. Sub criteria and evaluation matrix

were firmed up after the publication of clarification to the queries of the bidders and minimum qualifying threshold for each criteria were not disclosed in the bid documents. These practices could possibly impact adversely on the objectivity and transparency of the evaluation process.

We noted with appreciation that the Management (Procurement and Travel division) has agreed to implement our recommendations by revising its Procurement Manual.

### **Patent Cooperation Treaty**

We noticed that there was a need of higher degree of coordination between the International Bureau of WIPO, Receiving Offices and International Search Authorities (ISAs) to improve the timeliness of critical activities. Delay in the establishment of international search reports resulted in re-publication thereby putting pressure on the limited resources of the International Bureau and delaying the decision on the patentability of an invention or innovation.

The data on PCT national phase entry was an indicator of the effectiveness of the PCT. However, information on national phase entries was not complete as only some of the Receiving Offices were providing data to WIPO on a regular basis.

Schedule of fees provides for reduction of fees on account of e-filing which was introduced in 2004 to promote e-filing and reduce the workload of paper filings. Despite the significant increase in e filing due to improvement in the use of information technology, the fee structure has not been revisited.

There was a geographical shift in filing of PCT applications away from the US and Europe to Asian countries. However, there was no change in availability of translation skills in 2011 when compared to 2009 as far as Asian languages were concerned.

## Summary of Recommendations

### **Recommendation 1**

*WIPO may consider the creation of a separate reserve for the purpose of financing projects as stated in Note 21 and 24 of the financial statements.*

### **Recommendation 2**

*The Management may consider formulating and implementing an appropriate Treasury and Cash Management policy including borrowings to improve the financial management.*

### **Recommendation 3**

*WIPO may consider conducting annual stock verification of high value assets.*

### **Recommendation 4**

*(i) Formal office instructions need to be issued to put in place an adequate regulatory framework for acquisition of services through SSAs.*

*(ii) Competitive selection may be implemented for sourcing and engagement of SSAs. The degree of competitiveness associated with the sourcing process may vary depending on the value of the obligation.*

### **Recommendation 5**

*(i) Terms of Reference should be clear and specific in terms of objectives and targets; tangible and measurable outputs of the work assignment with specific delivery dates; and performance indicators for evaluation of results, e.g. timeliness, and value of services rendered in relation to their cost.*

*(ii) To restrict the repeated use of the same consultant, either to perform different tasks within a program or series of tasks within the same project, a suitable time limit should be fixed.*

*(iii) Responsibilities of Certifying Officer need to be clearly defined.*

### **Recommendation 6**

*(i) WIPO needs to act upon its commitment to the member states, to draw up and implement an effective cost efficient strategy in relation to expenditure on SSAs.*

*(ii) Key Elements of cost efficient strategy could be:*

- a. Competitive sourcing of SSAs; and*
- b. Request for consultant SSA may not be processed unless the program manager certifies that the work assignment does not include functions assigned to regular staff in the recent past or are intended to be assigned in the near future.*

### **Recommendation 7**

*(i) The evaluation of proposals received from the vendors should be based on the criteria set forth in the solicitation documents and each criteria should be given a predetermined weightage before issuing the tender documents.*

(ii) The criteria and sub criteria with their weights should be disclosed to the bidders in the tender documents.

(iii) The minimum qualifying threshold for each criterion should also be disclosed.

(iv) WIPO may align its procurement policy/framework with United Nations guidelines in this area.

**Recommendation 8**

IB should improve its coordination with ROs to ensure adherence to timelines. The IB may like to consult and try to develop a mechanism specifically with those ISAs from where high numbers of ISRs are received after prescribed time lines.

**Recommendation 9**

PCT should continue in its endeavour to impress upon the member states on the usefulness of sharing and exchanging maximum national data to enable the IB/PCT to provide complete information services.

**Recommendation 10**

The schedule of fee, which was last revised in 2008 may be revisited taking into account the subsequent developments including the increased share of electronically filed applications.

**Recommendation 11**

PCT may consider a mechanism to transfer search fees to ISAs that have minimal exposure to foreign exchange fluctuations.

**Recommendation 12**

Considering the increase in the number of international applications received, diversity of languages in which they are received, increasing share of applications from a select few countries and automation of processing of applications, a skill gap analysis may be undertaken to formulate a long term strategy.

**Recommendation 13**

WIPO may focus on further strengthening the internal controls to avoid recurrence of fraud cases.

**We urge the organization to take action to implement past and current recommendations of the external auditor.**

## Introduction

### Scope and approach of Audit

1. The audit of the World Intellectual Property Organization (WIPO) was assigned to the Comptroller and Auditor General of India for the financial years 2012 to 2017 in terms of approval of the WIPO General Assembly Fortieth (20<sup>th</sup> Ordinary) Session, Geneva, held from 26 September to 5 October, 2011. The scope of the audit is in accordance with Regulation 8.10 of the Financial Regulations and the principles set out in the Annex to these regulations.
2. The audit for the financial year 2012 was conducted as per our audit plan drawn up on the basis of risk analysis of WIPO conducted by us in June/July 2012. The audit included audit of the financial statements of WIPO; performance audit of the Patent Cooperation Treaty; and compliance audit of ‘Sourcing and engagement of Special Service Agreements and Commercial Service Providers’. Professional reliance was placed, wherever necessary, on the work of the internal audit.
3. Important findings arising from these audits were discussed with the management and were thereafter conveyed to them through Management Letters. The more significant of these findings, appropriately aggregated, are presented in this report.

### Auditing Standards

4. The audit was conducted in accordance with the International Standards of Auditing issued by the International Federation of Accountants (IFAC) and adopted by the Panel of External Auditors of the United Nations, its Specialized Agencies and the International Atomic Energy Agency; Auditing Standards of the International Organization of Supreme Audit Institutions (INTOSAI); and Regulation 8.10 of the Financial Regulations of the WIPO and the Additional Terms of Reference governing the audit of WIPO as set out in the Annex to the Financial Regulations.

## Audit Findings

### A. Financial matters

5. Our audit included a review of the financial statements to ensure that there were no material errors and that the requirements of International Public Sector Accounting Standards (IPSAS) had been met. WIPO adopted IPSAS in 2010 and during the year 2012, it adopted IPSAS 31 on Intangible Assets. The surplus for the year ended 31 December 2012 was 15.7 million Swiss francs

### **Audit Opinion on the 2012 Financial Statements**

6. According to the terms of reference for the External Auditor, I am required to express an opinion on WIPO's financial statements for the financial period ended 31 December 2012. Audit of the financial statements for the financial period 2012 revealed no weaknesses or errors that I considered material to the accuracy, completeness and validity of the financial statements as a whole. Accordingly, I have placed an unqualified audit opinion on WIPO's Financial Statements for the financial period ended 31 December 2012.

### **Changes made to Financial Statements**

7. On the basis of our observations during the conduct of audit, the Management made the following improvements in the financial statements and Notes thereto:
  - Details of interest expended in the cash flow statement were provided;
  - The fact that IPSAS 31 was not being applied retrospectively was disclosed;
  - Disclosure note on the accounting policy for Fixed Assets was modified for cases where fixed assets were in use for part of the year for charging depreciation only for the months during which the asset was in use;
  - Disclosure was made that WIPO was not aware of any restrictions on the realizability or remittance of revenue from the investment property;
  - Disclosure of rent paid by WIPO for building on *Rue des Morillons* in Geneva; and
  - Misclassifications between current and non-current liabilities relating to repatriation grant and travel were rectified.

### **Creation of separate reserve to finance projects**

8. Note 21 to the Financial Statements states that accumulated surplus funds in excess of the target level may be made available by the Assemblies to finance capital improvements or other priorities in accordance with the policy on the utilization of reserves established by WIPO's Assemblies. As per Note 24, WIPO incurred CHF 14.818 million on projects financed from reserves. However, we noted that no separate reserve as mentioned in Note 21 and Note 24 for financing projects existed and expenditure on the said projects was charged to the statement of financial performance.

9. The Management stated that although the organization identifies resources for these projects, this is from available accumulated surpluses in accordance with the WIPO Policy on Reserves. There is no creation of a separate reserve fund for these projects, and therefore to separately present such a reserve fund in the financial statements would be incorrect.
10. However, in our opinion, a separate reserve should be created to maintain a clear distinction between reserves allocated to finance projects and the accumulated surplus.

**Recommendation 1**

*WIPO may consider the creation of a separate reserve for the purpose of financing projects as stated in Note 21 and 24 of the financial statements.*

**Treasury and Cash management**

11. WIPO did not have a Treasury and Cash Management policy. We observed instances of opening of bank accounts without approval of the Controller. Out of sixty eight (68) bank accounts of WIPO, bank reconciliation statements of nine (9) accounts were only sent for independent verification (to Income Section).
12. There was no system of reporting financial risks associated with treasury activities. There was no system of generating exception reports to be provided to senior management, especially relating to policy breaches. For example, exception reports on non-compliance with stipulated limits and authorization, individual transaction above threshold limits, loss making transactions (foreign exchange) above threshold limit, payment and transactions that are not in line with trend based on past history, bank accounts with balances in excess of operational requirements etc. could be generated.
13. We observed that the average rate of interest earned on interest bearing accounts and investments held with the Swiss National Bank was 0.375 *per cent* in 2012 whereas the interest paid on the new building loan (CHF 126.1 million) was on an average 2.62 *per cent*. In addition a commitment charge of 0.15 *per cent* annually was payable on unutilized loan. Hence, the interest paid on borrowings and the commitment charges were significantly higher than the return on the investment of the organization. Therefore, it becomes even more necessary to have a cash management policy as borrowing is an important component of cash management.
14. The Management stated that appropriate delegation levels from the Controller would be established for the opening of bank accounts. It further stated that there exists a system of

independent reconciliation; and Finance Department would review the process of independent verification. The Management would examine the proposal to adopt a treasury and cash management policy including policy on borrowings, with focus on how this could achieve better control and governance over liquidity management and investment. This would be done as part of the independent treasury study which is envisaged.

**Recommendation 2**

*The Management may consider formulating and implementing an appropriate Treasury and Cash Management policy including borrowings to improve the financial management.*

**Asset management**

15. WIPO follows a biennial policy for its inventory tracking and recording assets. We noted that assets each with a value over CHF 5000, constitute only 14.46 *per cent* of the total number of items in physical numbers but 59 *per cent* in terms of financial value of the total assets. These high value items may require annual physical verification instead of a biennial exercise for better control. Appropriate classification of the existing assets would be the first step towards regular and improved control. Thereafter, the annual stock taking of high value assets may be considered.

16. The Management stated that it was actively reviewing the current process in place for the physical verification of WIPO's assets, and would seek to establish how this could be improved.

**Recommendation 3**

*WIPO may consider conducting annual stock verification of high value assets.*

**B. Special Service Agreements and Commercial Service Providers**

17. We reviewed the 'Sourcing and engagement of Special Service Agreements<sup>1</sup> and Commercial Service Providers' to assess the compliance to the framework of rules and

---

<sup>1</sup>WIPO defines SSA as an agreement between WIPO and one individual to provide expertise, skills or knowledge for performance of a specific task or a piece of work (e.g. study, report, translation work, IT development). The SSAs are managed by the Human Resources Development Department (HRMD) of WIPO.

regulations, guidelines applicable to SSAs and CSPs, and whether the regulatory framework was aligned with the best practices available in the United Nations system. The main results of this audit are presented in the succeeding paragraphs

### ***Special Service Agreements (SSAs)***

#### **Regulatory and policy framework for acquisition of services through SSAs**

18. We observed that the regulatory framework for acquisition of services through SSAs was inadequate. Frequently Asked Questions (FAQs) were the only source from where we could ascertain the definition and scope of SSAs. According to the FAQs, a Special Service Agreement (SSA) was an agreement between WIPO and one individual (the SSA holder) to provide expertise, skills or knowledge for the performance of a specific task (e.g. study, report, translation work, IT development). The functions of the SSA holder were result oriented and therefore defined over a limited period of time. These functions were described in the Terms of Reference (TOR). The tasks of an SSA were not to correspond to continuing and/or core functions. An SSA was used for one individual only and was subject to HRMD certification. A commercial entity was not hired through an SSA.

19. We observed that competitive sourcing was completely absent in the process of acquisition of services through SSAs. There was an acquisition of services valuing CHF 24 million during 2012-13 through SSAs, which was outside the purview of any regulations and competitive sourcing.

#### ***Recommendation 4***

- (i) Formal office instructions need to be issued to put in place an adequate regulatory framework for acquisition of services through SSAs.*
- (ii) Competitive selection may be implemented for sourcing and engagement of SSAs. The degree of competitiveness associated with the sourcing process may vary depending on the value of the obligation.*

20. We appreciate that the Management has accepted the recommendations and has agreed to work towards closing the gaps. Towards this end, it has taken the following actions:

- (i) WIPO has prepared a policy, ‘WIPO General Policy Framework on non-staff contracts’, which will be published and implemented as ‘Office Instruction’.*
- (ii) This policy incorporates competitive selection process associated with increasing thresholds of annual contract value.*



### Process of certification of SSAs

21. Rule 105.6 (a) of the Financial Regulations and Rules (FRR) of WIPO stipulates that the certifying officers are responsible for ensuring that the utilization of resources proposed by Program Managers, including posts, are in compliance with FRR, the Staff Regulations and Rules of the Organization and the Office Instructions issued by the Director General.
22. Weaknesses were noticed in the certification process as the Terms of Reference were general in nature and did not define the specific task and deliverables in measurable terms. As per the latest version (December 2010) of SSA FAQs, the tasks of an SSA were not to correspond to continuing and/or core functions. However, the SSAs were engaged for long periods through renewals and thus, they were discharging continuing functions which violated the FAQs guidelines and should have been covered under appropriate staff contracts.

#### **Recommendation 5**

- (i) *Terms of Reference should be clear and specific in terms of objectives and targets; tangible and measurable outputs of the work assignment with specific delivery dates; and performance indicators for evaluation of results, e.g. timeliness, and value of services rendered in relation to their cost.*
- (ii) *To restrict the repeated use of the same consultant, either to perform different tasks within a program or series of tasks within the same project, a suitable time limit should be fixed.*
- (iii) *Responsibilities of Certifying Officer need to be clearly defined.*

23. The Management has accepted the recommendation and stated that:
- (i) The need to provide specific and clear terms of reference is taken into account in the new policy
  - (ii) A time limit for use of a consultant has been incorporated in the new policy.
  - (iii) Reference to the responsibility of certifying officers has been made in the new policy.

### Cost efficiency measures for SSAs

24. We appreciate that WIPO has put in place two cost efficiency measures in relation to SSAs i.e. reduction in SSA provisions by around 10 *per cent* and a cap in maximum duration of WIPO based SSAs (on-site) of 3 months. However, we noted that there was

an absence of a well defined cost efficiency strategy for SSAs. Though overall reduction in SSA expenditure in 2012 was eight *per cent* when compared with figures of 2011, but when compared with 2010 figures, SSA expenditure in 2012 had recorded an increase of twenty seven *percent*.

**Recommendation 6**

- (i) *WIPO needs to act upon its commitment to the member states to draw up and implement an effective cost efficient strategy in relation to expenditure on SSAs.*
- (ii) *Key Elements of cost efficient strategy could be:*
  - a. *Competitive sourcing of SSAs; and*
  - b. *Request for consultant SSA may not be processed unless the program manager certifies that the work assignment does not include functions assigned to regular staff in the recent past or are intended to be assigned in the near future.*

25. The Management has accepted the recommendations and stated that the competitive sourcing of SSA is described in the new policy. Further, in order to avoid a work assignment which includes functions assigned to regular staff, paragraphs 4 and 5 of the new policy define tasks which may be assigned in non-staff contracts.

**Commercial Service Providers (CSPs)**

26. We appreciate that the Procurement and Travel Department (PTD) has been using E-tendering portal since 2011 for almost all the tenders. PTD has put in place document retention policy, rules for signature delegation of contracts, code of conduct for managing supplier relationship and double envelope system for tenders with a value exceeding CHF 500,000. Also, key performance indicators to measure supplier performance along the contract have been introduced and guidelines for evaluation team for open international tenders have been framed. However, the following areas are not aligned with the international best practices available in the United Nations system.

- Inconsistencies were noticed between the evaluation criteria published in the tender documents and the criteria used in the evaluation matrix;
- Sub criteria and evaluation matrix were firmed up after the publication of clarification to the queries of the bidders; and
- The minimum qualifying threshold for each criterion were not disclosed in the bid documents.

27. The above practices could impact adversely on the objectivity and transparency of the evaluation process

**Recommendation.7**

- (i) *The evaluation of proposals received from the vendors should be based on the criteria set forth in the solicitation documents and each criteria should be given a predetermined weight before issuing the tender documents.*
- (ii) *The criteria and sub criteria with their weights should be disclosed to the bidders in the tender documents.*
- (iii) *The minimum qualifying threshold for each criterion should also be disclosed.*
- (iv) *WIPO may align its procurement policy/framework with United Nations guidelines in this area.*

28. We noted with appreciation that the Management (PTD) has agreed to implement our recommendations by incorporating the following provisions in its revised Procurement Manual.

"(a) A full evaluation matrix will need to be proposed by the requisitioner (or the evaluation team) and approved by PTD before the publication of the tender documents.

"(b) Tender documents will fully disclose the technical evaluation criteria.

"(c) Minimum qualifying threshold, if any, will also be disclosed in the solicitation documents.

### **C. Patent Cooperation Treaty (PCT)**

29. A performance audit of Patent Cooperation Treaty (PCT) system was conducted during 2012 with the main objective to assess whether there was a mechanism to provide the desired Intellectual Property (IP) services in an economical and efficient manner. Our findings are presented in the following paragraphs.

#### **Efficiency of operations of PCT**

30. Patent Cooperation Treaty was designed to facilitate the process for seeking multinational patent protection in the Treaty's member states. Higher degree of coordination between the International Bureau (IB) of WIPO, Receiving Offices (RO) and International Search Authorities (ISAs) was required to improve the timeliness of critical activities. We appreciate that more than 90 percent of Form PCT/IB/301<sup>2</sup> were sent<sup>3</sup> within five weeks

<sup>2</sup> Patent Cooperation Treaty/International Bureau/301

<sup>3</sup>Year 2009-91 %, 2010-96% and 2011-91%

after the IB received an International Application (IA). This was an indicator of good performance of PCT operations. However, we noted that in the year 2011, there was regression in this indicator. Further, there was delay in establishment of international search reports (ISRs) which resulted in re-publication, putting pressure on the limited resources of the IB and delaying the decision on the patentability of an invention or innovation.

31. The Management stated that the IB shared the concern that late issue and receipt of ISRs was a serious issue and affected the functioning of the PCT system; these delays negatively affected the benefits that applicants obtained out of the PCT system, reduced the value of international publication for the general public and increased the workload of the IB by necessitating a large number of republications. The main reason behind the considerable number of late search reports lay in the difficulty of many ISAs in consistently complying with the time limits under the PCT for the establishment of the ISR. IB reminded ISAs of their obligations under the Treaty on a continuous basis and regularly published timeliness statistics, on this particular issue.

**Recommendation 8**

*IB should improve its coordination with ROs to ensure adherence to timelines. The IB may like to consult and try to develop a mechanism specifically with those ISAs from where high numbers of ISRs are received after prescribed time lines.*

**Measuring effectiveness of PCT system**

32. The data on PCT national phase entry is used by WIPO as an indicator of the effectiveness of the PCT. The number of national phase entries increased from 430,357 in the year 2008 to 477,500 in 2010. The data suggests that the PCT filing being adopted and followed by the applicants for national phase entry is increasing over the years. However, complete information on national phase entries was not forthcoming and only some of the Receiving Offices were providing data to WIPO on regular basis. This was supplemented by collection of information through questionnaires by the Economic and Statistics Division of WIPO.
33. The Management stated that International Bureau of WIPO was assessing options to assist national offices to deliver national phase entry information, including the possibility of providing additional status reporting functionality within the Industrial Property Automation System (IPAS) developed by WIPO's Global Infrastructure Sector and adding new functionality to the e-PCT services for Offices.

**Recommendation 9**

*PCT should continue in its endeavour to impress upon the member states on the usefulness of sharing and exchanging maximum national data to enable the IB/PCT to provide complete information services.*

**Revenue generation in PCT**

34. Schedule of fee provides for reduction of fees on account of e-filing which was introduced in 2004 to promote e-filing and reduce the workload of paper filings. Despite the significant increase in e-filing due to improvement in use of information technology, the fee structure has not been revisited.
35. The Management stated that the International Bureau agreed that the goal of incentivizing applicants to file international applications in electronic form by way of fee reductions had largely been achieved. The International Bureau consequently intended to begin a review of the issue, also taking into account the possible introduction of fee reductions for small and medium-sized enterprises, universities and research institutes, as requested by member states. It intended to submit a discussion paper and, if possible, concrete proposals on both issues to the next session of the PCT Working Group.

**Recommendation 10**

*The schedule of fee, which was last revised in 2008 may be revisited taking into account the subsequent developments including the increased share of electronically filed applications.*

36. WIPO bears an additional burden of compensating the ISAs on account of loss to them due to foreign exchange fluctuations in the fee collected and transferred to them by the ROs.
37. The Management stated that the IB agreed that there was a need to develop (and propose to member states for adoption) a better mechanism for the transfer of search fees from the ROs to the ISAs.

**Recommendation 11**

*PCT may consider a mechanism to transfer search fees to ISAs that have minimal exposure to foreign exchange fluctuations.*

**Human resources in PCT**

38. There was a geographical shift in filing of PCT applications away from US and Europe to Asian countries. The changing environment required an assessment of desired skills. However, there was no change in availability of translation skills in 2011 when compared to 2009 as far as Asian languages were concerned.
39. The Management stated that the audit finding correctly stressed the challenges the PCT faces in terms of the alignment of the language profile of its staff with filing patterns, in particular with respect to Chinese, Japanese and Korean. This problem affects not only the processing service but also the translation service.

**Recommendation 12**

*Considering the increase in the number of international applications received, diversity of languages in which they are received, increasing share of applications from a select few countries and automation of processing of applications, a skill gap analysis may be undertaken to formulate a long term strategy.*

**D. Cases of Frauds, Presumptive Frauds and Write-Offs**

40. Analysis of the information on fraud/presumptive fraud provided by the office of the Director, Internal Audit and Oversight Division (IAOD) indicate that 21 new cases were registered in the year 2012 following complaints or information concerning the positive existence of fraud, waste, abuse of authority, non-compliance with rules and regulations of WIPO. There were 16 investigation cases which had been carried forward from 2011. A total of 25 cases of investigation were closed during 2012 and as on 31 December 2012, the IAOD had 12 cases from 2012 and the previous years which were still being investigated.
41. The IAOD had also recommended in November 2012 the recovery of an amount of CHF 4636.80 from a staff member in one particular instance. IAOD informed that the recovery was being effected.

**Recommendation 13**

*WIPO may focus on further strengthening the internal controls to avoid recurrence of such fraud cases.*

**E. Review of management action on past recommendations**

42. The status of implementation of the External Audit Recommendations by WIPO is enclosed as an **Annexure**.

*We urge WIPO to take action to implement the recommendations made last year and in this report.*

**F. Write-off of losses of cash, receivables and property**

43. The Management informed that in accordance with Financial Regulation 6.4, Financial Rule 106.8, losses of CHF 97,883 had been written off during the year 2012.

**Acknowledgement**

44. We wish to record our appreciation for the cooperation and assistance extended by the Director-General, the Heads of various wings, the IAOD and the staff of the World Intellectual Property Organisation during our audits.



**Shashi Kant Sharma**  
**Comptroller and Auditor General of India**  
**External Auditor**  
**29 July 2013**

## Annexure

### Status of Previous Year’s External Audit Recommendations

Recommendation	Report Title	Management reply	Status of Implementation
<p>I invite WIPO to take the appropriate measures to ensure the mutual replacement of key employees and to set up a working group. Referring more specifically to the Finance Services I suggest formulating a designated group of several colleagues capable of conducting all the required work elements related to closing.</p>	<p>Audit of 2010 Financial Statements</p>	<p>Changes to the structure of Finance services are envisaged which will involve the formation of an Accounts and Financial Reporting Unit. This unit will be responsible for the financial closure. Its formation partly depends on the future recruitment into Finance service. The attempts to recruit a finance officer at P3 level have failed and the competition has been cancelled. Finance services are now expecting various alternatives.</p>	<p>In progress. Implementation is envisaged by December 31, 2013</p>
<p>Before WIPO can benefit from the efficiency gains of the ERP implementation, it is essential that the users of the AIMS system are properly trained. I therefore recommend that WIPO reviews the present training concept which does not reach all of its intended objectives. Further, WIPO should review the extent to which the current on-line training courses can be improved.</p>	<p>Information Systems Audit of AIMS upgrade project</p>	<p>The efforts continue to address training needs for projects as well as training in the context of on-going operations-this latter is required because as in any organization the user population does not remain static. The immediate focus of the portfolio is to ensure that training for the HR project phase I go-live is planned very carefully and administered well in time for the go-live. Progress has been made on this front to identify the groups of users and the training that will be needed. The project team is examining the feasibility of using UPK (user productivity kit) as a tool for on-line documentation and training.</p>	<p>In progress. Closure is imminent on documentation requested to Management.</p>



<p>I recommend that WIPO looks for synergies in treating applications for education grants to ensure that the efficiency and effectiveness of the processes are increased.</p>	<p>Audit of Financial controls of the Human Resources Department</p>	<p>As part of the ERP-HR Project Phase I which is planned to be delivered on July 1, 2013, an automated module will be implemented to facilitate the efficiency and effectiveness of the Education Grant procedures and processes. This will include better information sharing for the payment of the advance and the claim. This issue will be reviewed with the UN general review.</p>	<p>In progress. The HR module will go live October 1<sup>st</sup> 2013.</p>
<p>I recommend that WIPO simplifies its catalogues while respecting the processes put in place and accommodating the different user requirements.</p>	<p>Upgrade project</p>	<p>The review is under progress and a new architecture has already been designed. It now needs to be rolled out for each of the existing catalogues and then implemented. The new structure has been identified, and in order to implement it in AIMS, we are now looking for an item. Mr. Sundaram has agreed to the principle of the Intern to help on this matter.</p>	<p>Not yet started.</p>

## RECOMMENDATIONS BY THE EXTERNAL AUDITOR AND WIPO MANAGEMENT RESPONSES

### Recommendation 1

*WIPO may consider the creation of a separate reserve for the purpose of financing projects as stated in Note 21 and 24 of the financial statements.*

Management takes note of this recommendation to create a separate reserve for the purpose of financing projects and will examine how such a separate reserve would be presented in the notes to the financial statements.

### Recommendation 2

*The Management may consider formulating and implementing an appropriate Treasury and Cash Management policy including borrowings to improve the financial management.*

Management will examine the proposal to adopt a treasury and cash management policy, including the Organization's policy on borrowings, with focus on how this could achieve better control and governance over liquidity management and investments. This will be done as part of the independent treasury study which is envisaged.

### Recommendation 3

*WIPO may consider conducting annual stock verification of high value assets.*

Management is actively reviewing the current process in place for the physical verification of the Organization's assets, and will seek to establish how this can be strengthened.

### Recommendation 4

- (i) *Formal office instructions need to be issued to put in place an adequate regulatory framework for acquisition of services through SSAs.*
- (ii) *Competitive selection may be implemented for sourcing and engagement of SSAs. The degree of competitiveness associated with the sourcing process may vary depending on the value of the obligation.*

Management accepts this recommendation and will issue a formal Office Instruction to put in place an adequate regulatory framework for acquisition of services through SSAs. Competitive selection will be implemented for sourcing and engagement of SSAs, with appropriate thresholds in place depending on the value of the obligation.

### Recommendation 5

- (i) *Terms of Reference should be clear and specific in terms of objectives and targets; tangible and measurable outputs of the work assignment with specific delivery dates; and performance indicators for evaluation of results, e.g. timeliness, and value of services rendered in relation to their cost.*

- (ii) *To restrict the repeated use of the same consultant, either to perform different tasks within a program or series of tasks within the same project, a suitable time limit should be fixed.*
- (iii) *Responsibilities of Certifying Officer need to be clearly defined.*

Management substantively agrees with this recommendation and will implement this within the framework of the new OI and related procedures.

#### **Recommendation 6**

- (i) *WIPO needs to act upon its commitment to the member states, to draw up and implement an effective cost efficient strategy in relation to expenditure on SSAs.*
- (ii) *Key Elements of cost efficient strategy could be:*
  - a. *Competitive sourcing of SSAs; and*
  - b. *Request for consultant SSA may not be processed unless the program manager certifies that the work assignment does not include functions assigned to regular staff in the recent past or are intended to be assigned in the near future.*

WIPO Management accepts the recommendation, and, in line with its undertakings under Recommendations 4 and 5 above, will be introducing competitive sourcing and the reinforcement of appropriate checks and balances and controls.

#### **Recommendation 7**

- (i) *The evaluation of proposals received from the vendors should be based on the criteria set forth in the solicitation documents and each criteria should be given a predetermined weightage before issuing the tender documents.*
- (ii) *The criteria and sub criteria with their weights should be disclosed to the bidders in the tender documents.*
- (iii) *The minimum qualifying threshold for each criterion should also be disclosed.*
- (iv) *WIPO may align its procurement policy/framework with United Nations guidelines in this area.*

The Procurement and Travel Division (PTD) is reviewing its Procurement Manual with a view to issuing a revised version which will incorporate the following provisions with regard to requests for proposals:

1. A full Evaluation matrix will be required from a requisitioner (or an evaluation team), to be approved by PTD before the publication of tender documents;
2. Tender documents will fully disclose the technical evaluation criteria including their respective weights and associated sub-criteria. Weights will be given (out of a total of a 100) for the technical part of the evaluation only. The weight of the financial component will not be disclosed;
3. The minimum qualifying threshold (e.g. minimum rate(s) and/or minimum score(s)), if any, will also be disclosed in the solicitation documents.

### **Recommendation 8**

*IB should improve its coordination with ROs to ensure adherence to timelines. The IB may like to consult and try to develop a mechanism specifically with those ISAs from where high numbers of ISRs are received after prescribed time lines.*

The International Bureau agrees with the need for good cooperation and coordination between the International Bureau and all PCT Offices and Authorities in order to continue its efforts to improve compliance with PCT time limits. The International Bureau also agrees that timeliness of the international search report and the written opinion by the International Searching Authority is important. It will continue to work with the International Authorities towards improving the timeliness of those reports and opinions.

### **Recommendation 9**

*PCT should continue in its endeavour to impress upon the member states on the usefulness of sharing and exchanging maximum national data to enable the IB/PCT to provide complete information services.*

The International Bureau agrees that sharing and exchanging of data relating to the processing of international applications by designated and elected Offices in the national phase is important for the PCT system to function as *the central node* of the international patent system. It will continue to work with Member States towards improving the current situation.

### **Recommendation 10**

*The schedule of fee, which was last revised in 2008 may be revisited taking into account the subsequent developments including the increased share of electronically filed applications.*

The issue of potentially modifying the PCT Schedule of Fees in relation to international applications filed in electronic form has been addressed in a more general working document on PCT fee issues which was discussed at the sixth session of the PCT Working Group in May 2013. The Working Group agreed for discussions on this issue to continue at its next session in 2014.

### **Recommendation 11**

*PCT may consider a mechanism to transfer search fees to ISAs that have minimal exposure to foreign exchange fluctuations.*

The International Bureau agrees that, in view of PCT Rule 16.1(e), it would be preferable to have the International Bureau take on a more active role in the transfer of search fees from the receiving Offices to the International Searching Authorities. It is anticipated to finalize soon agreement on a “proof of concept” pilot project between the United States Patent and Trademark Office (USPTO), the European Patent Office (EPO) and the International Bureau, whereby the USPTO, acting in its capacity as a receiving Office (RO), would send search fees collected by it for the benefit of the EPO, acting in its capacity as an International Searching Authority (ISA), “via” the International Bureau to the EPO. The IB would hence be put into a position to manage the risks associated with exchange rate fluctuations between the US dollar and the Euro. It is envisaged that the pilot project will deliver sufficient results

to enable the International Bureau and Member States to evaluate whether the same arrangements should be established for other International Searching Authorities and receiving Offices.

### **Recommendation 12**

*Considering the increase in the number of international applications received, diversity of languages in which they are received, increasing share of applications from a select few countries and automation of processing of applications, a skill gap analysis may be undertaken to formulate a long term strategy.*

The International Bureau agrees. This review is an ongoing process. HRMD will follow-up on critical language-related needs as identified in the Program and Budget 2014/2015.

### **Recommendation 13**

*WIPO may focus on further strengthening the internal controls to avoid recurrence of fraud cases.*

The number of fraud/presumptive cases registered by IAOD in 2012 represents a minority of the 21 cases registered and only two of these cases led to an actual finding of fraud. In one of these two cases, it is precisely the internal controls in place that allowed its detection. Nevertheless, as WIPO continues its ongoing effort to strengthen internal controls, it will redouble its efforts to prevent, deter and address fraud. In particular, IAOD follows up on its internal audit recommendations and continues to issue management implication reports with recommendations derived from investigation findings, which include improvements to existing systems, policies, and procedures, strengthening of internal controls, and measures which prevent similar fraudulent incidents from recurring. IAOD will soon be conducting a fraud risk assessment of the Organization.

## **Statement on Internal Control for 2012**

### **Scope of Responsibility**

As Director General of the World Intellectual Property Organization (WIPO), I am accountable, in accordance with the responsibility assigned to me, in particular, Regulation 5.8 (d) of the Financial Regulations and Rules, for maintaining a system of internal financial control which ensures:

- (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 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.

### **Purpose of the system of internal control**

The system of internal control is designed to reduce and manage rather than eliminate the risk of failure to achieve the Organization's aims and objectives and related policies. Therefore, it can only provide reasonable and not absolute assurance of effectiveness. It is based on an ongoing process designed to identify the principal risks, to evaluate the nature and extent of those risks and to manage them efficiently, effectively and economically.

Internal control is a process, effected by the Governing Bodies, the Director General, senior management and other personnel, and designed to provide reasonable assurance on the achievement of the following internal control objectives:

- Effectiveness and efficiency of operations and safeguarding of assets,
- Reliability of financial reporting and
- Compliance with applicable rules and regulations.

Thus, on an operational level, WIPO's internal control system is not solely a policy or procedure that is performed at certain points in time, but rather continually operated at all levels within the Organization through internal controls processes to ensure the above objectives.

My current statement on WIPO's internal control processes, as described above, applies for the year ended December 31, 2012, and up to the date of the approval of the Organization's 2012 financial statements.

## **Risk Management and control framework**

The Organization is implementing a risk management program as part of the Strategic Realignment Program (SRP) through an initiative entitled “Strengthen internal control systems” , which includes:

- A “gap” assessment of the internal control system,
- Identification of risks classified according to relevance, impact and probability of occurrence,
- Creation of an internal controls manual,
- Strengthening of internal controls across the Organization.

The WIPO Policy of Investments was approved by the Assemblies in 2011. In accordance with this policy, an Advisory Committee on Investments (ACI) has been established and met for the first time in 2012. The ACI monitors the investments of WIPO to ensure that they are consistent with the policy and reports to me any variations from the policy, the reasons and remedial actions. WIPO’s cash position remained sound throughout 2012.

The Contracts Review Committee continues to review relevant procurement cases and to advise me on appropriate procurement action.

## **Review of effectiveness**

My review of effectiveness of the system of internal controls is mainly informed by:

- My senior managers, in particular Deputy Directors-General and Assistant Directors-General who play important roles and are accountable for expected results, performance, their Division’s activities and the resources entrusted to them. The information channels mainly rely on periodic meetings held by the Senior Management Team.
- I derive assurance from Management Representation Letters signed by key WIPO officers. These letters recognize their responsibility for having and maintaining, in the programs, well functioning systems and a mechanism for internal control aimed at presenting and/or detecting instances of fraud and major errors.
- The Internal Audit and Oversight Division (IAOD), on whose reports of internal audits, evaluations and advisory services I rely, also provide their reports to the Independent Advisory Oversight Committee (IAOC). These include independent and objective information on the adequacy and effectiveness of the Organization’s system of internal controls, and the related functions of oversight.
- IAOC is responsible for systematic appraisal of my actions to maintain and operate appropriate and effective internal controls. The Committee is also responsible for

determining that all major issues reported by IAOD, the External Auditor and the Joint Inspection Unit (JIU) have been satisfactorily addressed. Finally, the IAOC is responsible for reporting its findings to the Program and Budget Committee (PBC),

- The Chief Ethics Officer who provides confidential advice and counsel to the Organization and its staff on ethics and standards of conduct and promotes ethical awareness and responsible behavior in handling referrals concerning allegations of unethical behavior including conflict of interest,
- The JIU of the United Nations System,
- The External Auditor, whose comments are submitted to the PBC and the Assemblies, and
- The Governing Bodies' observations.

## **Conclusion**

Effective internal control, no matter how well designed, has inherent limitations – including the possibility of circumvention – and therefore can provide only reasonable assurance. Furthermore, because of changes of conditions, the effectiveness of internal control may vary over time.

I am committed to addressing any weaknesses in internal controls noted during the year and to ensure that continuous improvement of the system of internal controls is in place.

Based on the above, I conclude that, to the best of my knowledge and information, there are no material weaknesses which would prevent the External Auditor from providing an unqualified opinion on the Organization's financial statements nor are there significant matters arising which would need to be raised in the present document for the year ended December 31, 2012.



Francis Gurry  
Director General

[End of document]