

## Program and Budget Committee

**Twenty-Fifth Session**  
**Geneva, August 29 to September 2, 2016**

### 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 December 31, 2015;
  - (ii) Report of the External Auditor for the financial year 2015 to the 56<sup>th</sup> Series of Meetings of the Assemblies of the Member States of WIPO (also known as the "long form report"). This report contains the External Auditor's recommendations arising from the three audits undertaken during the year 2015/16;
  - (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 following decision paragraph is proposed.
  3. *The Program and Budget Committee recommended to the General Assembly and other Assemblies of the Member States of WIPO to take note of the Report by the External Auditor (document WO/PBC/25/4).*



## **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<sup>st</sup> December 2015, the statement of financial performance, statement of changes in net assets, statement of cash flows, statement of comparison of budget and actual amounts, and notes to the financial statements, for the financial period ended 31<sup>st</sup> December 2015.

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

As stated in the Notes to the Financial Statements, these financial statements and accompanying schedules and notes are prepared on the accrual basis of accounting, in accordance with International Public Sector Accounting Standards (IPSAS). Management is responsible for the preparation and fair presentation of these financial statements. This responsibility includes (a) designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement - whether due to fraud or error; (b) selecting and applying appropriate accounting policies; and (c) making accounting estimates that are reasonable in the circumstances.

### **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 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 control 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 control. 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.

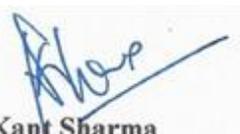
### **Opinion**

In our opinion, these financial statements present fairly, in all material respects, the financial position of the World Intellectual Property Organisation as at 31<sup>st</sup> December 2015 and its financial performance and of its cash flows for the period 1<sup>st</sup> January 2015 to 31<sup>st</sup> December 2015 in accordance with IPSAS.

### **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 the 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  
4 July 2016



**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. K. S. Subramanian  
Director General (International  
Relations)**

O/o the Comptroller and Auditor  
General of India

9, Deen Dayal Upadhyay Marg  
New Delhi, India - 110124

Email : [subramanianKS@cag.gov.in](mailto:subramanianKS@cag.gov.in)

**REPORT OF THE  
EXTERNAL AUDITOR**

**TO THE 56<sup>TH</sup> SERIES OF MEETING  
OF THE GENERAL ASSEMBLY OF**

**WORLD INTELLECTUAL  
PROPERTY ORGANIZATION**

**FOR THE FINANCIAL YEAR 2015**

## EXECUTIVE SUMMARY

1. 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 2015. The audit included audit of the financial statements of WIPO, audit of "Arbitration and Mediation Center" (AMC) and audit of the Travel and Fellowships.

2. On the basis of our audit, I am of the opinion that the financial statements for the financial period ended 31 December 2015 present fairly in all material respects the financial position of WIPO as on 31 December 2015 and of its financial performance during the period from 1 January 2015 to 31 December 2015. Accordingly, I have placed an unqualified audit opinion on the WIPO's financial statements for the financial period ended 31 December 2015.

### Financial Management

3. Surplus for the year 2015 was 33.27 million Swiss francs, which has decreased by 10.02 *per cent* as compared to surplus for the year 2014. Patent Cooperation Treaty (PCT) Union has weightage of 77.66 *per cent* in the surplus of 2015 (106 *per cent* in 2014). Thus, surplus/deficit of the WIPO was mainly influenced by surplus/deficit in the PCT performance.

4. Total revenue of WIPO increased by 3.18 *per cent* from 370.18 million Swiss francs in 2014 to 381.94 million Swiss francs in 2015. The largest source of revenue during 2015 was PCT system fees accounting for 72.1 *per cent* of total revenue. Revenue from PCT system fees decreased in the year 2015 by 1.14 *per cent* compared to 2014.

5. In 2015, expenses in WIPO stood at 348.67 million Swiss francs, which increased by 4.64 *per cent* compared to total expenses of 333.21 million Swiss francs in 2014. The largest expense for the Organization in 2015 was personnel expenditure of 216.27 million Swiss francs, having share of 62.03 *per cent* of total expenses, which remained stable in absolute terms compared to personnel expenditure in 2014.

6. The net assets increased from 245.79 million Swiss francs at the end of 2014 to 279.06 million Swiss francs at the end of 2015.

## **Financial Issues**

7. According to WIPO's accounting policy for revenue recognition, revenue from exchange transactions comprising the fees charged for applications under the PCT system is recognized at the date of publication. We observed that during 2015, WIPO received a payment regularization of 4.7 million Swiss francs which was included in PCT system fees for the year 2015, though the PCT applications for which the payment was received related to the filing year as far back as 2004. In our opinion, had there been a detailed mechanism to reconcile the revenue arising out of PCT international filing fees in a reporting year with the figure based on PCT applications published in that year, it would have enabled correct depiction of the PCT fees in the financial statements for 2010 (*i.e.*, in the year IPSAS were adopted by WIPO) and thereafter. WIPO may devise a detailed mechanism to ensure that the revenue arising out of PCT international filing fees in any reporting year reconciles with the figure based on PCT applications published in that year.

8. We observed that there was no formal mechanism to ascertain whether there were any volatile changes in fair value of the property, plant, and equipment, which required annual revaluation, to ensure that the carrying amount did not differ materially from the fair value. WIPO may formalize suitable indicators and criteria that would guide it on the necessity of performing revaluation of the property, plant and equipment each year.

9. We noted that fully depreciated assets with gross carrying amount of 10.31 million Swiss francs were in use. Use of these assets implies that they possess economic value to the organization and that the useful lives of some assets might have been significantly underestimated. WIPO may reassess the useful lives of assets to reflect fair presentation and to achieve a reasonable estimate of useful lives of assets.

## **Arbitration and Mediation Centre**

10. A review of "Result Framework" for the biennium 2012-2013 to 2016-2017 showed that despite achievement of targets under some categories being exceeded consistently by considerable margins, certain targets for subsequent years were not suitably revised. It may be useful to strengthen the mechanism for fixing realistic targets for Performance Indicators.

11. The AMC has not been able to fully achieve all three Outcome indicators as per the Medium Term Strategic Plan relating to increased use and enhanced demand of its global

products and services contributing to the financial sustainability of the Organization. The AMC may adopt a more proactive approach to make WIPO's Alternative Dispute Resolution services, the system of first choice for users through attractive and cost-effective efforts. The efforts may, among others, include highlighting its strengths through publicity, carrying out survey to solicit feedback of its clients on its services and centrally analyze suggestions/feedbacks from customers on regular basis.

12. We are of the view that the current system of empanelment does not allow the AMC to include names of neutrals from a wider field. The AMC may consider framing a more transparent and well-publicized policy setting out the process and the criteria for inclusion of neutrals in WIPOs list.

13. While appreciating that in reality some delays may be inevitable which are not foreseen in the Rules, we recommended that the AMC may strengthen its monitoring mechanism to reduce the time taken for providing domain name dispute resolution services to its clients.

14. The AMC did not have a Business Continuity Plan in place. The AMC may frame a Business Continuity Plan, along with Business Impact Analysis, showing alternative arrangements and back up plans in case of a failure of one of the critical processes.

### **Travel and Fellowships**

15. We observed some instances of non-compliance of Staff Regulations and Rules (SRR) and Office Instructions (OI) and guidelines relating to Travel Missions, Home Leave Travel, Education Grant Travel (EGT), Travel on Appointments and repatriation, *etc.* These cases included:

- Accepting change requests in travel dates / destination before issue of tickets.
- Allowing return travel to staff member who repatriated before completion of six months from the date of return from home leave.
- Sanctioning EGT, though the child of the staff member did not stay the prescribed minimum seven working days with the staff member at duty station.
- Allowing two way air tickets against eligibility of one way travel for dependant joining staff member's duty station.

- Failure to generate electronic-Travel Authorisation request before 10 days of the proposed day of travel.
- Failure to submit TA claims after completion of journey within the prescribed time limits.
- Allowing change in class of travel from economy to business for travels involving less than nine hours.

16. We recommended that WIPO may continue to adopt effective measures to comply with SRR and OI in these cases of travel.

17. We noted that the contract with the travel agent did not provide for payment of transaction fee for 'Agent Assisted' bookings and the travel agent was paid the higher of the two contracted rates. We recommended that WIPO may take steps to address the technical problems in booking of online tickets and in the interim may negotiate a minimum transaction fee for 'Agent assisted' bookings with suitable contract revision.

18. We noted that on-board DSA was allowed to staff members for nights spent in Aircraft which is not applicable at any other UN Agency. We recommended that the travel policy for payment of 50 *per cent* of the DSA may be reviewed.

## **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 2015 was conducted as per an audit plan drawn up on the basis of risk analysis of WIPO conducted by us. Our work included audit of the financial statements of WIPO, audit of Arbitration and Mediation Center and audit of the Travel and Fellowships. 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 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 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.

### **Financial Management**

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 adopted IPSAS 28, 29 and 30 relating to Financial Instruments during the year 2013.

## Audit Opinion on the 2015 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 2015. Audit of the financial statements for the financial period 2015 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 2015.

## Key financial Indicators

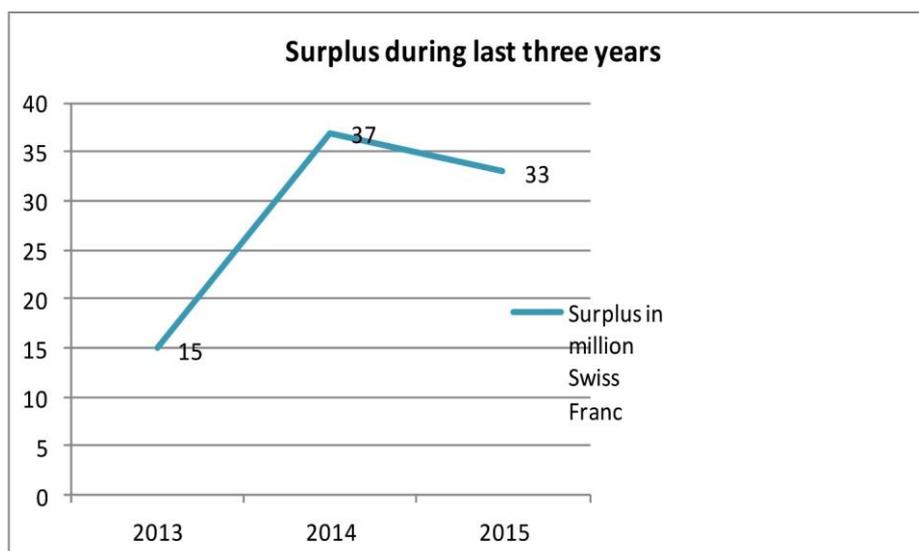
7. The key financial indicators that merit the attention of the Member States (MSs) are as below:

## Audit Findings

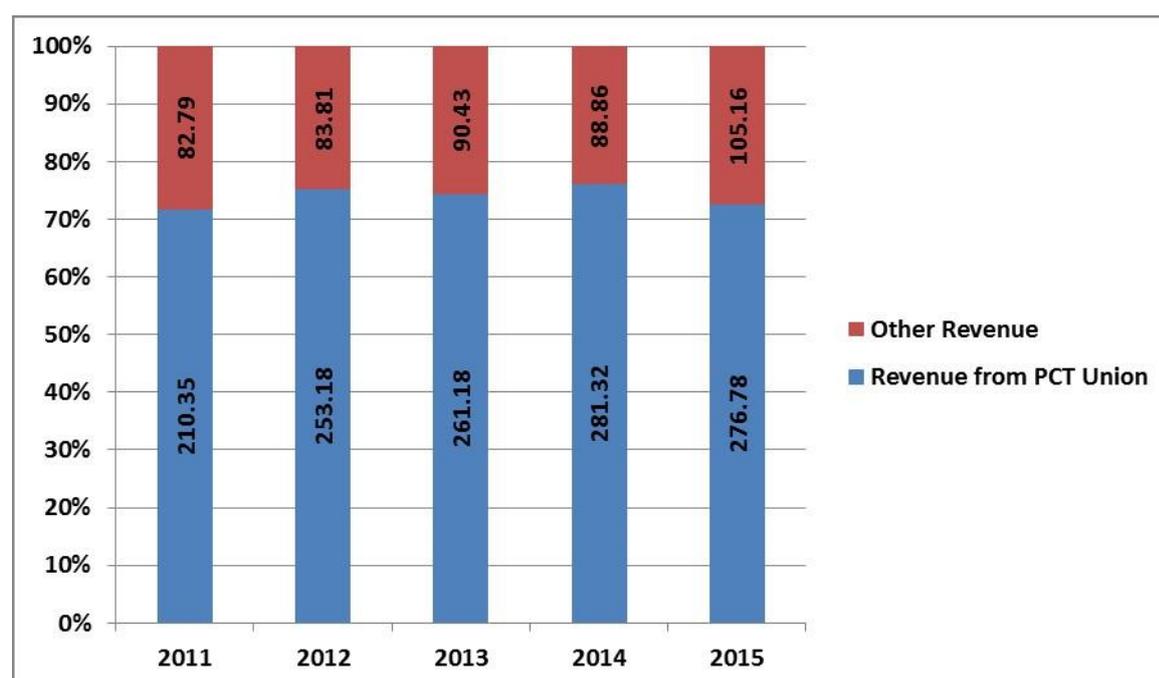
### Financial Matters

#### Operating Surplus / Deficit

8. The surplus/deficit is the difference between the revenue and expenses of WIPO during the year. Surplus for the year 2015 was 33.27 million Swiss francs, which has decreased by 10.02 *per cent* as compared to surplus for the year 2014. However, as compared to surplus of 2013 it shows increase of 119.87 *per cent*.



9. We found that the decrease in the financial performance in 2015 as compared to 2014 was mainly due to increase in the expenses in nearly all categories except personnel expenditure, most notably increase of 8.5 million Swiss francs in contractual services. However, as compared to 2013, the improvement in the financial performance was mainly due to activities of Patent Cooperation Treaty (PCT) which constituted 72.1 per cent of total revenue of WIPO in 2015.



### Segment Analysis

10. Revenue, expenditure and surplus/deficit across different segments<sup>1</sup> are shown below:

*(Amount in thousands of Swiss francs)*

Year 2015						
Segment	Contribution Financed	PCT Union	Madrid Union	Hague Union	Lisbon Union	Special Accounts
Revenue	18,803	276,781	71,010	5,034	1,102	9,213
Expense	17,107	250,945	62,811	7,011	1,586	9,213
Surplus/deficit	1,696	25,836	8,199	-1,977	-484	0

<sup>1</sup> Segment reporting is presented in a format which represents the various Unions as the segments that make up the WIPO.

<b>Year 2014</b>						
Revenue	18,817	281,318	57,285	3,927	764	8,069
Expense	17,560	242,133	57,330	7,322	792	8,069
Surplus/deficit	1,257	39,185	- 45	- 3,395	-28	0
<b>Year 2013</b>						
Revenue	19,277	261,181	58,456	4,531	1,308	6,858
Expense	19,068	242,349	59,749	7,603	852	6,858
Surplus/deficit	209	18,832	- 1,293	- 3,072	456	0
<b>Year 2012</b>						
Revenue	18,631	253,183	54,329	3,442	390	7,021
Expense	18,414	232,104	56,159	6,854	734	7,021
Surplus/deficit	217	21,079	- 1,830	- 3,412	- 344	0
<b>Year 2011</b>						
Revenue	18,080	210,345	53,731	3,260	215	7,506
Expense	18,954	234,316	57,838	5,981	752	7,506
Surplus/deficit	- 874	-23,971	- 4,107	- 2,721	- 537	0

11. PCT Union has weightage of 77.66 *per cent* in the surplus of 2015 (106 *per cent* in 2014). Thus, surplus/deficit of the WIPO was mainly influenced by surplus/deficit in the PCT performance.

12. In 2015, expenses increased by 4.64 *per cent* and revenue increased by 3.18 *per cent* over 2014, resulting in a surplus of 33.27 million Swiss francs, down by 10.02 *per cent* from 2014.

### **Revenue**

13. For the year 2015, total revenue of WIPO is 381.94 million Swiss francs, which has increased by 11.76 million Swiss francs compared to the 2014 total revenue of 370.18 million Swiss francs.

14. The largest source of revenue during 2015 was PCT system fees, accounting for 72.1 *per cent* of total revenue. Revenue from PCT system fees decreased in the year 2015 by 1.14 *per cent* compared to 2014. Although, the number of PCT applications continued to increase in 2015 with an estimated 217,600 applications in 2015 compared to 214,314 in 2014, the number of publications of applications actually fell from 210,609 in 2014 to 200,928 in 2015.

15. Madrid system revenue represented the second largest source of revenue for the Organization, accounting for 17.78 *per cent* of total revenue. Revenue from Madrid system increased by 23.25 *per cent* compared to 2014. Revenue from Hague system in 2015 increased by 745,000 Swiss francs compared to the previous year.

16. Revenue from assessed contributions of 17.8 million Swiss francs represented 4.66 *per cent* of total revenue, while revenue from voluntary contributions of 10.26 million Swiss francs received under Special Accounts represents 2.68 *per cent* of total revenue.

### **Expenses**

17. In 2015, expenses in WIPO stood at 348.67 million Swiss francs, and it increased by 4.64 *per cent* compared to total expenses of 333.21 million Swiss francs for 2014.

18. Representing the nature of work performed by the Organization, the largest expense for the Organization in 2015 was personnel expenditure of 216.27 million Swiss francs, having share of 62.03 *per cent* of total expenses. Personnel expenditure in 2015 remained stable in absolute terms compared to 2014.

19. Contractual services remained the second largest expense of the WIPO in 2015 at 72.09 million Swiss francs, having share of 20.68 *per cent* of total expenses. Contractual services expenses increased by 13.37 *per cent* compared to 2014.

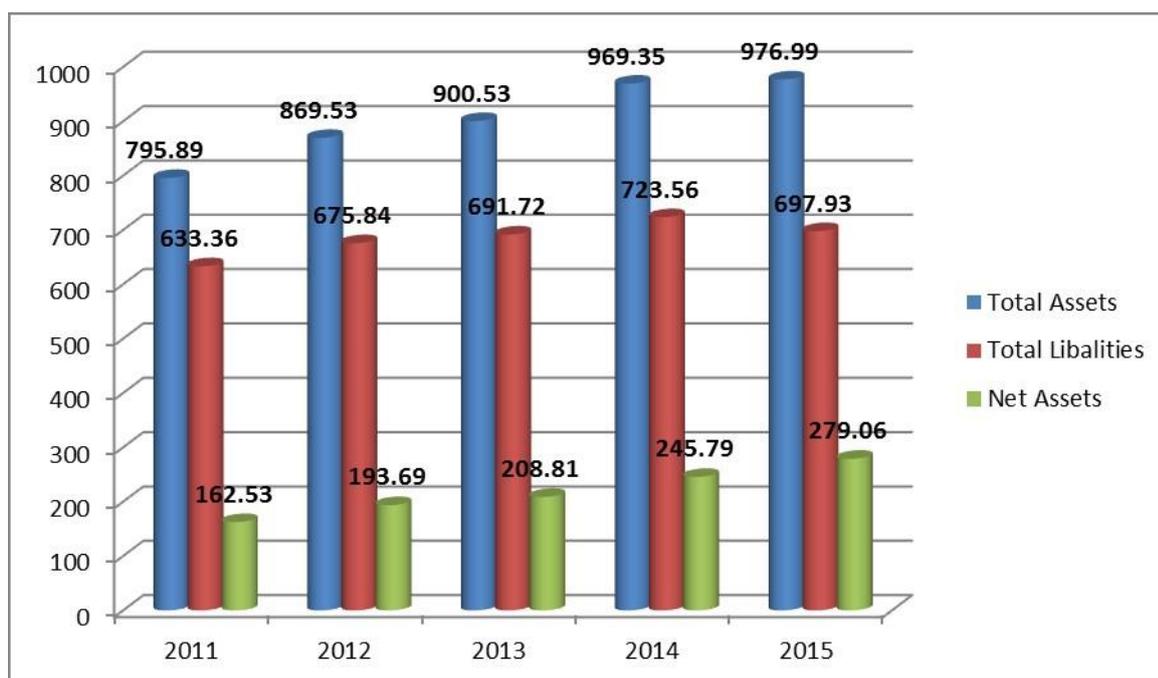
20. Operating expenses in 2015 were 21.2 million Swiss francs, having share of 6.08 *per cent* of total expenses incurred by the WIPO. Operating costs increased by 1.67 *per cent* compared to 2014.

21. Travel and fellowships expenses were 17.39 million Swiss francs for the year 2015 and having share of 4.99 *per cent* of total expenses. These expenses increased by 13.24 *per cent* compared to the year 2014.

22. Expenses for supplies and materials were 3.58 million Swiss francs for the year 2015. It increased by 98.72 *per cent* compared to the year 2014.

## Financial Position

23. As at 31 December 2015, the Organization has total assets of 976.99 million Swiss francs and total liabilities of 697.93 million Swiss francs. Net assets have increased to 279.06 million Swiss francs at the end of 2015 compared to 245.79 million Swiss francs at the end of 2014.



## Budgetary Performance

24. WIPO prepares biennium budget. The biennium budget of 674 million Swiss francs for the period 2014-2015 was approved by the Assemblies of the Member States of WIPO on 12 December 2013. As per 2014-2015 biennial budget prepared by WIPO in compliance with IPSAS requirements, the total budget revenue was 713.29 million Swiss francs. The actual total revenue was 775.72 million Swiss francs which was 62.43 million Swiss francs more than budgetary estimation. Total expenses for the biennium ended 31 December 2015 were 642.60 million Swiss francs which were 31.40 million Swiss francs lesser than the budgetary estimates.

## **Improvements effected in the Financial Statements for 2015 as a result of External Audit**

25. We appreciate that the management carried out changes/improvements, based on the external audit observations, in the Financial Statements for the year ended 31 December 2015. Some important changes carried out are as below:

- i. A detailed table was included in Note 2: Significant Accounting Policies to eliminate categories with wide ranges of useful lives of components of buildings and constructions;
- ii. A disclosure for the fully depreciated assets in use for a gross carrying amount of 10.3 million Swiss francs was made as per IPSAS 17;
- iii. The text of Note 9: Land and Buildings was amended to reflect capitalization of two million Swiss francs in Georg Bodenhausen building I instead of Georg Bodenhausen building II.
- iv. An updated explanation of the US taxes reimbursable was included in the Note 4 to the Financial Statements.
- v. A disclosure was made in the Note 12: Employee Benefits to reflect inclusion of staff members who may be granted advance annual leave in the calculation of the overall balance of accumulated leave.
- vi. Note 16 regarding provisions was modified to indicate the uncertainty in the timing of future settlements at the reporting date.

## **Audit Findings**

### **Financial Matters**

#### **PCT International Filing Fees**

26. According to WIPO's accounting policy for revenue recognition, revenue from exchange transactions comprising the fees charged for applications under the PCT system is recognized at the date of publication. Revenue from fees received for applications not published at the reporting date is deferred until publication has been completed.

27. As per the Annual Financial Report of WIPO for 2015, the number of PCT applications published in 2015 was 200,928 and international filing fees were 263.6 million Swiss francs in 2015. However, analysis of the data pertaining to PCT applications published during 2015 as furnished by WIPO disclosed that though the total number of PCT applications published in 2015 almost matched, the international filing fees based on the number of applications published during 2015 did not match.

28. We also observed that during 2015, WIPO received a payment regularization of 4.7 million Swiss francs which was included in PCT system fees for the year 2015, though the PCT applications for which the payment was received related to the filing year as far back as 2004.

29. WIPO stated that the information on which the payment regularization was based had been only available following a review of historical remaining amounts and filings, performed during 2015 in relation to the planned closing of the Japan PCT current account.

30. We are of the view that reliable data could have been obtained, as each application had a distinct identification and it was possible to ascertain when the applications filed were being published. In our opinion, had there been a detailed mechanism to reconcile the revenue arising out of PCT international filing fees in a reporting year with the figure based on PCT applications published in that year, it would have enabled correct depiction of the PCT fees in the financial statements for 2010 (*i.e.*, in the year IPSAS were adopted by WIPO) and thereafter.

### **Recommendation 1**

**WIPO may devise a detailed mechanism to ensure that the revenue arising out of PCT international filing fees in any reporting year reconciles with the figure based on PCT applications published in that year.**

31. WIPO agreed with the recommendation and stated that going forward it would include a more detailed analysis of total publications during the year as part of its year-end procedures.

### **Revaluation**

32. IPSAS 17 states that revaluations shall be made with sufficient regularity to ensure that the carrying amount does not differ materially from that which would be determined

using fair value at the reporting date. It further states that some items of property, plant, and equipment experience significant and volatile changes in fair value, thus necessitating annual revaluation.

33. The valuation of the land upon which the New Building was constructed was performed by an independent appraiser at 31 December 2013. The independent appraiser had drawn attention of WIPO to the fact that because of the current volatility in the global financial system creating a significant degree of turbulence in commercial real estate markets and lack of liquidity in the capital markets, the valuations must be kept under regular review. We observed that there was no formal mechanism to ascertain whether there were any volatile changes in fair value of the property, plant, and equipment, which required annual revaluation, to ensure that the carrying amount did not differ materially from the fair value.

34. WIPO stated that its policy is to undertake independent revaluation at least every third year or more frequently in case of indications of a material change in market prices. They added that market conditions are monitored to see if there will be a material change in market prices and a new valuation would be started for the 2016 financial statements.

## **Recommendation 2**

**WIPO may formalize suitable indicators and criteria that would guide it on the necessity of performing revaluation of the property, plant, and equipment each year.**

35. WIPO accepted the recommendation and stated that they would formalize suitable indicators and criteria as the basis for concluding on the necessity of performing a revaluation of the land at each year-end.

## **Fully Depreciated Assets**

36. According to IPSAS 17, the useful life of an asset shall be reviewed at least at each annual reporting date and if expectations differ from previous estimates, the change(s) shall be accounted for as a change in an accounting estimate in accordance with IPSAS 3, Accounting Policies, Changes in Accounting Estimates and Errors.

37. We observed from the Asset Register as at 31 December 2015 that out of 2,889 items having gross carrying amount of 14 million Swiss francs, 2,648 items (91.66 *per cent*) with gross carrying amount of 10.31 million Swiss francs were in use though these had already been depreciated fully. Use of these assets implies that they possess economic value to the

organization and that the useful lives of some assets might have been significantly underestimated. Furthermore, carrying such a high proportion of fully depreciated assets of very old period may tend to increase the operating costs leading to waste and inefficiency.

38. WIPO stated that given the disposals advised by the Property Survey Board in 2016, and potential changes to the UN Task Force recommended useful life ranges, it would be appropriate to further analyze useful lives applied by WIPO at the end of 2016.

### **Recommendation 3**

**WIPO may reassess the useful lives of assets to reflect fair presentation and to achieve a reasonable estimate of useful lives of assets.**

39. WIPO accepted the recommendation and stated that they would analyze the useful lives during 2016.

### **Write-off of Transfers Payable**

40. According to Rule 34(2) of the “Common regulations under the Madrid agreement and protocol”, fees which are payable in connection with international registrations may be paid by the applicant or holder directly to the International Bureau.

41. We observed that as at 31 December 2015, an amount of 0.45 million Swiss francs was written back from transfers payable and credited to other/miscellaneous revenue for the year 2015. The amount written off pertained to overpayments of fee received by WIPO from applicants in 2009 and 2010 while filing or with the intention of filing applications under the Madrid agreement. The amount was written off as the applicants could not be traced.

42. We were informed that the time frame up to 2004 for writing off such amount was three years. After 2004 and following the replacement of Financial IT tools, the “Apurement” process was on hold since 2008 and presently the organization was trying to recover the large backlog of such cases where the write off may be required.

43. We noted that there was no formal documented policy regarding write-off of overpayments or payments never used by WIPO which could not be returned to the applicants because the organization could not trace them. We are of the opinion that the Organization needs to formalize a policy relating to such write-off which would provide assurance to the stakeholders.

#### **Recommendation 4**

**WIPO may consider devising a formal documented policy for write-off of amounts that it is unable to return to the applicants.**

44. Accepting the recommendation, WIPO stated that Madrid system fees and the associated billing procedures were currently under review and the need to devise a formal documented write-off policy would be considered as part of that review.

### **Arbitration and Mediation Centre**

#### **Background**

45. The objective of Strategic Goal II of WIPO pertaining to ‘Program 7: Arbitration and Mediation Centre’ is to make WIPO’s global systems and Alternative Dispute Resolution (ADR) services, the systems of first choice for users through attractive and cost-effective services.

46. The AMC was established in 1994 at Geneva, Switzerland to offer ADR options for the resolution of international commercial disputes involving IP disputes between private parties. The AMC is international, independent and neutral, and is supported by external experts in international dispute resolution and intellectual property. The AMC is, presently, headed by a Director who reports to the DDG (Patents and Technology Sector). The Director is assisted by Deputy Director & Head IP Disputes Management Section. The AMC has three main sections: the IP Disputes Management Section, Information and External Relations Section and Internet Dispute Resolution Section. These sections are staffed by Legal officers and case managers.

47. The AMC offers the following services for dispute resolution:

- i. **Mediation:** an informal procedure in which a neutral intermediary, the mediator, assists the parties in reaching a settlement of the dispute.
- ii. **Arbitration:** a binding procedure in which the dispute is submitted to one or more arbitrators who make a final decision on the dispute.
- iii. **Expedited Arbitration:** an arbitration procedure that is carried out in a short time and at a reduced cost.

- iv. **Expert Determination:** a procedure in which a technical, scientific or related business issue between the parties is submitted to one or more experts who make a determination.
- v. **Domain Name Dispute Resolution:** a procedure in which a trademark owner can file a case against a third party which has abusively registered the trademark as part of a domain name registration.

48. To facilitate the resolution of commercial/intellectual property disputes, the AMC (a) helps parties submit future or existing disputes to WIPO procedures; (b) assists in the selection of mediators, arbitrators and experts from the AMC's database of over 1,500 neutrals with expertise in intellectual property disputes; (c) sets the neutrals' fees, after consultations with the parties and the neutrals; (d) administers the financial aspects of the proceedings; (e) liaises with parties and neutrals to ensure optimal communication and procedural efficiency; and (f) if the parties wish, arranges for meeting support services, including hearing rooms and caucus rooms.

49. The AMC has processed over 33,000 disputes relating to internet domain names under Uniform Domain Name Dispute Resolution Policy (UDRP), established by the Internet Corporation for Assigned Names and Numbers (ICANN), by 2015 and has provided its services in more than 400 International and domestic disputes through WIPO Mediation, Arbitration and other Alternative Dispute Resolution Rules.

### **Planning: WIPO's Result Based Management Framework**

50. The Planning Framework for WIPO is guided by the Medium Term Strategic Plan 2010-15 (MTSP) which identifies strategic outcomes and outcome indicators. The biennium Program and Budgets are followed from the MTSP. Annual work plans and individual staff objectives operationalize the strategies and targets set out in the Program and Budget documents.

### **The Program and Budget**

51. The Program and Budget spells out every biennium the targets and achievements of the AMC against the Performance Indicators under the Expected Results categories under the "Result Framework" for the AMC. The targets set and the achievements under the "Result Framework" for the AMC for the Biennium 2012-2013 to 2016-2017 under the Expected Results are given in **Annexure-I**.

52. A review of “Result Framework” for the biennium 2012-2013 to 2016-2017 showed that under certain categories, though achievement consistently exceeded the targets by considerable margin, still certain targets were not revised as indicated below, reflecting that targets were not set based on the past experience of actual achievement.

<b>Indicator</b>	<b>Targets for 2012-2013</b>	<b>Achievement of Targets</b>	<b>Target for 2014-2015</b>	<b>Achievement of Targets</b>	<b>Target for 2016-2017</b>
<b>No of Additional disputes and Bon offices</b>	20	136	40	153	40
<b>Number of gTLD UDRP cases administered</b>	3500	4806	3000	4666	3000
<b>Number of ccTLD UDRP-based cases</b>	350	663	350	722	350

53. The AMC stated that targets were set based on the experiences gained and developments in the market. The results framework for a biennium reflected an intensive WIPO planning process culminating in the review and approval of the Program and Budget by the WIPO Member States. The proposed targets were discussed with and cleared by WIPO’s senior management for subsequent approval by the WIPO General Assembly. Targets of a given biennium take account of dynamic external conditions, on the basis of available resources which have remained stable for the AMC over the past biennium.

54. We are of the view that as targets had been regularly exceeded over the years in some cases, it was not always being revised on basis of experience.

#### **Recommendation 5**

**The AMC may continue to strengthen its mechanism of fixing realistic targets for Performance Indicators.**

55. Accepting the recommendation, WIPO stated that AMC closely monitored all the potentially impacting factors in setting its targets.

### **Performance of the AMC as an ADR Provider**

56. The Strategies for the AMC as per MTSP are (a) Enhance awareness of IP Alternative Dispute Resolution options, (b) increase market research into the needs of users of dispute resolution services and understanding of the factors that influence the decision to use ADR, (c) increase the attractiveness of dispute resolution services offered by the AMC by adapting its procedures and case infrastructure to the evolving needs of users, including through IT-based business solutions and working with IP owners, users and institutions to establish tailored procedures specifically adapted to the particular features of recurrent disputes in their areas of activity and (d) engage with areas of IP policy where there is likely to be a high volume of international IP transactions and a need for neutral, efficient and cost-effective dispute resolution services, such as transfer of technology agreements in relation to environmentally friendly technologies. The three general WIPO Outcome Indicators regarding WIPO's provision of premier global IP services as per MTSP are (a) increased and effective use of global products and services in Member States including in developing and least developed countries, (b) Enhanced demand for WIPO's global services and products contributing to the financial sustainability of the Organization and (c) higher satisfaction among users of WIPO's global IP products and services.

57. We assessed the performance of AMC as an ADR provider against the three Outcome Indicators and observed that:

- a) The AMC processed over 33,000 disputes relating to internet domain names under the UDRP and provided its services in about 400 International and domestic intellectual property disputes through WIPO mediation, arbitration and other alternative dispute resolution methods by 18 December 2015. While the number of UDRP cases dealt with by the AMC increased from 2,257 in 2013 to 2,288 in 2014 and 2,301 as at 18 December 2015, the number of disputes (Mediation, Arbitration, and Expert Determination; excluding Bon Offices) dealt by the AMC came down from 89 cases in 2013 to 18 in 2014 and 26 in 2015 respectively, even if exceeding the targets.
- b) While AMC's activities, as described *inter alia* in the MTSP, General Assembly Reports, Program and Budget, and Program Performance Reports, also comprised IP ADR policy development not coverable by fees, the income of AMC declined from 3.3 million Swiss Francs in the biennium 2010-2011 to three million Swiss

Francs in 2014-2015. For the biennium 2016-17, the income was estimated at 2.6 million Swiss Francs, to take account of the possibility of increased market competition by other accredited providers on the number of UDRP users. Further, percentage of the income to expenditure of the AMC is estimated to decrease from 34.96 to 22.89 during 2010-2011 to 2016-2017, as shown below:

*(Million Swiss francs)*

<b>Biennium</b>	<b>Income</b>	<b>Expenditure</b>	<b>Percentage of Income to Expenditure</b>
2010-2011	3.30	9.44	34.96
2012-2013	3.30	9.81	33.64
2014-2015*	3.00	11.22	26.74
2016-2017*	2.60	11.36	22.89

*\*estimated*

- c) On the issue of allocation of adequate budget for implementing the Development Agenda (DA) recommendations as relevant to the AMC, the AMC stated that they assigned a percentage of its personnel and non-personnel budget to development activities based on planned work. The AMC added that while they did not carry out formal DA projects as such, AMC contributed to development activities by way of its tailor-made arbitration and mediation programs for IP officials and practitioners, assistance to IP Offices in establishing optional ADR frameworks for disputes pending before them, and assistance to ccTLD authorities in the establishment of best registry practices and dispute resolution mechanisms, as relevant to developing countries and countries with economies in transition. We, however, could not assess whether the budget under Development Share was allocated and expenditure incurred in order to effectively meet its mandate as per DA recommendations of outreach of the AMC to developing and least developed countries.
- d) The International Survey on Dispute Resolution in Technology Transactions conducted (March 2013) by the AMC showed that 17 *per cent* of the respondents chose WIPO as the arbitral institution in technology-related agreements they concluded in the past two years. The position of the AMC was second after

International Chambers of Commerce (34 *per cent*) out of 10 selected arbitral institutions in the Survey.

- e) While WIPO had carried out a market survey and a reputation survey, no recorded survey to obtain feedback of its clients on their satisfaction has been conducted. The AMC stated that they take feedback after every case as a regular feature. However, the observations collected by AMC are not centrally stored for institutional memory and follow up.

58. The above showed that the AMC has not been able to fully achieve all three Outcome indicators as per the MTSP relating to increased use and enhanced demand of its global products and services contributing to the financial sustainability of the Organization. It has also not centrally analysed the satisfaction level of its clients to see whether satisfaction among users of WIPO's global IP products and services had increased.

59. As regards specific steps taken to ensure inclusion of AMC as the institution for dispute resolution in commercial agreements, the AMC explained that they participate in events and webinars; reply to telephone calls and email queries; and use mailings, articles and correspondence, *etc.*, in this regard. On reduced income estimates, the AMC stated that given the market dependencies, the AMC must apply a conservative approach. They added that although the AMC worked on a not-for-profit basis, it was also competing with numerous other ADR service providers in the market and there were inherent constraints with the AMC, having to operate under the WIPO set up with a fixed head count and budget and the national basis of users of other ADR providers. The AMC was trying to leverage its unique position of being a part of WIPO as an IP specialist and as such was concentrating on the disputes relating to IP.

60. We are of the view that the AMC needs to address the aspect of competition with other service providers and improve attractiveness and awareness of its services through satisfaction surveys and work on the feedback of its clients to further improve its services and give adequate publicity.

### **Recommendation 6**

**The AMC may adopt a more proactive approach to make WIPO's Alternative Dispute Resolution services, the system of first choice for users through attractive and cost-effective efforts. The efforts may, among others, include highlighting its strengths**

**through publicity, carrying out survey to solicit feedback of its clients on its services on a regular basis and centrally analyze suggestions/feedbacks from customers.**

61. Stating that they have identified in the WIPO Risk Register the challenges presented by the existence of competition in this area of WIPO activity, WIPO agreed with the need for full promotion of AMC's services. To this end, WIPO stated that AMC would make optimal use of available resources.

### **Empanelment of Neutrals**

62. The AMC maintains a database of 1,500 arbitrators and mediators (neutrals) from more than 100 countries, with further neutrals added to meet the specific needs of each case it administers. On a review of seven cases of empanelment, we observed that the AMC included new names in the list on the basis of application from the candidates, invitation from the AMC to them, or after meeting them in various trainings/workshops/conference, *etc.*

63. The AMC stated that the inclusion of neutrals on the WIPOs list normally commences with the filing of detailed profiles which is then considered by an internal AMC Committee and that the invitation process applies in particular in connection with specific ADR schemes where the AMC has actively identified (in collaboration with the AMC's partners) and trained potential neutrals based on their expertise in the sector, knowledge of applicable law and location.

64. We are of the view that the current system of empanelment does not allow the AMC to include names of neutrals from a wider field.

### **Recommendation 7**

**The AMC may consider framing a more transparent and well-publicized policy setting out the process and the criteria for inclusion of neutrals in WIPO's list.**

65. WIPO agreed with the usefulness of sharing further information on AMC's empanelment process.

### **Settlement Rate**

66. The settlement rate (ratio of cases settled and total cases) in cases administered under WIPO Mediation Rules and WIPO Arbitration Rules was 70 *per cent* and 37 *per cent* respectively (data as on July 2015).

67. We observed that the AMC did not at present have a system to assess whether the settlement rate was comparable to the other service providers in the market. WIPO neither has any target nor a benchmark in this regard.

68. The AMC stated that the 70 *per cent* settlement rate in WIPO Mediation was similar to that of other mediation providers. It further stated that although settlement rates in arbitrations administered by other providers generally were not available, the 37 *per cent* settlement rate in WIPO Arbitration appeared to be a high settlement rate. They added that although the WIPO Rules encourage mediators and arbitrators to look for settlement opportunities, the AMC is not in a position to liaise directly with the parties in this regard or to interfere in such settlement processes. Accordingly, fixing a benchmark for settlement rate would not be realistic. Further, comparing settlement rates with other providers may not be particularly useful due to the different characteristics of the cases administered by other ADR providers (*e.g.*, subject matter, location and nationality of the parties, applicable rules and laws, *etc.*).

### **Recommendation 8**

**The AMC may assess whether the current settlement rates are comparable to the standards in the market and may look at the possibility of fixing a benchmark to assess its performance on this front.**

69. WIPO stated that they would continue monitoring WIPO-administered cases for settlement purposes and more generally to assess available market information.

### **Administration Time of Domain Name Cases**

70. Timelines for administering Uniform Domain Name Policy (UDRP) cases have been prescribed under UDRP Rules, for each stage, from the date of receipt of complaint. We observed the following after the analysis of the data on gTLD cases from 2013-2015 (up to 2 December 2015).

### **Time Taken in Cases Administered**

71. In respect of 5,090 cases decided by Panels during the period from 2013 to 2015 (2 December 2015), we observed that the average time taken for the 4,884 cases administered by single panelist was 68.38 days, as against the bench mark of 57 days under the UDRP

Rules. The average time taken for the 206 cases administered by three member Panel was 91.87 days, as against the benchmark of 67 days.

### **Sending Request to Finance, Finance Action and Follow Up**

72. As per Para 4 of Rules for Uniform Domain Name Dispute Resolution Policy and as per 5 (a) of the Supplemental Rules for UDRP, the AMC shall review the complaint for administrative compliance and, if in compliance, shall forward the complaint to the Respondent within three calendar days following receipt of the fees (by Finance Division) to be paid by the Complainant. If the AMC finds the complaint to be administratively deficient, it shall promptly notify the Complainant and the Respondent of the nature of the deficiencies identified. The Complainant shall have five calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn. On the other hand, the Rules also prescribe that the AMC shall not take any action until it has received the initial fee.

73. We examined 6,738 cases and observed that:

- i. In 95 *per cent* of cases, AMC communication with finance took place within the broader period provided for compliance review. In the remaining five *per cent* of cases, the average time period of notice to finance (by the AMC about actual or impending receipt of fees) typically was 18 days.
- ii. In 389 cases, the average time required by Finance Division (Finance Action) after notice by the AMC was 10 days, depending on when payment could be confirmed.
- iii. In 4,046 cases, the average time taken for commencement after finance action was 10.3 days. As full information was not available in the data provided, we were not in a position to assess whether the delays in these cases were on account of delayed response by the AMC or the complainant could not correct the deficiencies within five days.

### **Time Taken for Appointment of Panel**

74. As per para 6 (b) of UDRP Rules, the AMC shall appoint a panel, within five calendar days following receipt of the response from the respondent, or the lapse of the time period for the submission thereof.

75. We observed that Panel was appointed in 5,250 out of 6,738 UDRP cases during 2013 to 2015 (2 December 2015). Out of 1,488 cases, where the panel was not appointed, 160 cases were pending as on 2 December 2015. Of the cases where appointment of the panel remained pending after five days (excluding those cases that were suspended or terminated), the average pendency measured was 6.4 days. In 5,220 cases out of 5,250 cases where the panel was appointed, the average additional appointment time in the 4,748 cases beyond the five-days timeline was approximately 8.5 days.

### **Time Taken for Notification of Decision**

76. As per para 15 (b) of the Rules for UDRP, in the absence of exceptional circumstances, the Panel shall forward its decision on the complaint to the AMC within 14 days of its appointment. As per para 16 (a), within three calendar days after receiving the decision from the Panel, the AMC shall communicate the full text of the decision to each Party, the concerned Registrar (s) and ICANN.

77. During 2013 to 2015 (11 December 2015), panel decision was received in 5,137 cases. While in 3,706 cases the panel decision was received within the stipulated (except exceptional circumstances) 14 days, in the remaining 1,431 cases, the time taken for forwarding the decision by the panel took on average an additional 8.3 days.

78. Further, in 5,093 cases, decision of the panel was notified by the AMC. There was an average delay of 9.5 days in notification of decision by the AMC beyond the stipulated three days in 4,169 cases.

79. The AMC stated that the UDRP Rules were created 16 years ago and the rules have only been changed twice since then and a range of pre-notification processes was not accounted for in the UDRP Rules. The AMC emphasized that a degree of flexibility serves the interest of all parties and meeting timelines, simply for the sake of meeting them, can seriously challenge due process and enforceability. The AMC contended that in terms of efficiency, the UDRP experience is recognized by parties the world over as far more preferable to those of local courts. Also, the AMC is not aware of a single case where UDRP

timelines were successfully invoked in court as having been inappropriate or prejudicial to any party.

80. While appreciating that in reality some delays may be inevitable which are not foreseen in the Rules, we are of the view that time is an important element in Domain Name Disputes because of which ADR services are preferred.

### **Recommendation 9**

**The AMC may strengthen its monitoring mechanism to reduce the time taken for providing UDRP services to its clients.**

81. While agreeing with the recommendation, WIPO pointed out that a wide range of special domain name practices and case scenarios continues to emerge for which a one-size-fits-all approach to the UDRP Rules cannot work.

### **Increasing Effectiveness through IT Systems**

82. Adaption of procedures and case infrastructure to the evolving needs of users including through IT based business solutions is identified as a business strategy as per MTSP (2010-15) to increase attractiveness of the ADR services.

83. The Domain Name Case Management System, an Oracle based application developed for handling domain name disputes and the Arbitration and Mediation Database, handling the data relating to arbitration and mediation cases are two IT systems in the AMC. Various additional functionalities were added to these two systems in the years 2013-15, like development of online WIPO Fee Calculator, development of online WIPO Clause Generator, integration of Arbitration Case Management System with Finance department, *etc.* To complement the previously-available part-time internal development capacity, contracts for undertaking external programming were issued in the last few years. The AMC's near to midterm plans consists of a number of database enhancements.

84. We observed that the AMC did not have sufficient internal resources for development and maintenance of IT resources. The AMC was presently seeking internal programming assistance, in particular maintenance from within WIPO PCT IT department. In the absence of sufficient regular staff, the AMC had to hire contractors/individuals for regular and confidential nature of work.

85. The AMC acknowledged the benefits of in-house programming capacity, in particular for maintenance and enhancements to existing case management applications. This concerns primarily maintenance and enhancements to the two case management databases employed by the AMC (in-house developed), which are vital to the efficient processing of cases, especially on a fixed headcount and where cases numbers are growing.

### **Recommendation 10**

**The AMC may consider framing a long term IT investment plan, including for human resources.**

86. WIPO accepted the recommendation and stated that AMC's IT needs were being addressed by PCT ISS both in terms of personnel and non-personnel resources.

### **Training**

87. From the 'Person's Training Report by Dates for 2013-2015' (giving details of training imparted to staff in the years 2013-15), we observed that in many cases, there was no link between the training needs assessed as per Performance Measurement and Staff Development System (PMSDS) and the actual training imparted. Some employees were either not given any training at all in the period or were given training in some other areas. During test check we noticed that in two cases, employees were given training in areas other than the needs assessed as per the PMSDS. Further, the PMSDS evaluation report for the year 2013-14 showed that in 2013, training needs were Not Fulfilled in four out of 11 cases and was only Partially Fulfilled in three cases. In 2014, training needs were Not Fulfilled in three cases and only Partially Fulfilled in four cases.

88. While agreeing that they had not conducted a skill gap analysis, the AMC stated that individual training needs were recorded as part of the PMSDS process for the AMC staff members and fulfilled in cooperation with the HRMD, as feasible. Critical Collective Training Needs were recorded as part of Program and Budget preparations.

### **Recommendation 11**

**The AMC may conduct skill gap analysis and impart training based on this analysis.**

89. WIPO agreed with the recommendation.

## **Financial Management**

90. The financial management of the AMC was reviewed to see whether its revenue and expenditure were collected, recorded, reconciled, and accounted for in an accurate, complete and timely manner and whether the online payment receipt system was efficient, safe and secure. We also reviewed whether there was a clear policy as to the circumstances and the amount to be borne by WIPO, in the event fees fall short due to bank charges/credit card commissions, *etc.*, and whether concessions given by WIPO was as per approved guidelines.

## **Outstanding Items**

91. We observed that 602 cases valuing 667,214 Swiss francs were active or outstanding for reconciliation (as of 3 December 2015) between the AMC and Finance Division. Out of 499 gTLD cases active or outstanding for reconciliation, 27 cases had been terminated and the refund to the filing party took more than 30 days from the date of termination (up to 554 days). Out of 86 ccTLD cases active or outstanding for reconciliation, six cases had been terminated and the refund to the filing party exceeded one month. These included one case (883 Swiss francs) which was outstanding for reconciliation for over 360 days and two cases (1147 Swiss francs) which were outstanding for over 180 days. In both the gTLD and ccTLD cases identified above, typically AMC had not been able to affect payment due to the lack of banking information despite AMC requests for such information.

92. The AMC stated that the cases flagged were being examined by case managers and followed up where appropriate. It noted that in the vast majority of these cases, reconciliation proceeded promptly upon completion of the legal procedure. Of the remaining cases, reconciliation has external dependencies. AMC will place increased focus on the resolution of such dependencies.

## **Recommendation 12**

**The AMC may strengthen its mechanism for reconciliation of open items with Finance Division.**

93. WIPO noted the recommendation.

### Fixation of Fees in Domain Name cases

94. The Schedule of Fees (valid as of 1 December 2002) under paragraph 10 of the WIPO Supplemental Rules for the UDRP, is given below:

Number of Domain Names Included in the Complaint for single Panelist	Fee (US Dollars)
1 to 5	1500 [Panelist: 1000; WIPO Center: 500]
6 to 10	2000 [Panelist: 1300; WIPO Center: 700]
More than 10	To be decided in consultation with the WIPO Center

### Fixation of Fees for More Than Ten Domain Names

95. As per Schedule of Fees under the UDRP, in cases involving more than 10 domain names, the fees will be fixed in consultation with the AMC.

96. There were 92 UDRP cases in 2013-15 where the domain names were more than 10. A scrutiny of fees charged in 26 cases test checked revealed that the Center's internal fee guidelines were not followed in four cases, where, the applicants were charged only USD 6000-6500 as against the fee of USD 8000 each mentioned in the internal fee guidelines.

97. AMC stated that other factors were considered in each case, in addition to the number of domain names. They added that in determining the actual level of fees in specific cases, the AMC necessarily needed to maintain a degree of flexibility. In all but four cases cited by Audit, this internal fee guideline structure had been followed.

98. We observed that the factors that were considered in decision making were not recorded.

### Recommendation 13

**The AMC may record all major factors in exercising the necessary discretion while fixing fees.**

99. WIPO agreed that, in exercising the necessary discretion, specific factors may be recorded.

### Credit Card /Bank charges

100. As per Rule 10 of WIPO Supplemental Rules for UDRP, bank charges, transfer fees or other amounts that may be levied in connection with a payment made to the AMC shall be borne by the party making the payment.

101. We noticed that there were 2,900 cases of payments through credit card amounting to 4.62 million Swiss francs during 2013 to 2015 (up to 30 September 2015). The credit card charges/commission levied by the Credit card service providers and borne by WIPO were 110,665 Swiss francs.

*(Amount in Swiss francs)*

Year	Incoming payments through credit card			Outgoing refunds			Net payments/card charges	
	No. of cases	Payments by parties	Credit card Charges borne by AMC	No. of refund cases	Payments to parties	Credit card Charges	Net payments by parties	Net credit card charges
2013	910	1743697	43023	146	441866	10676	1301831	32347
2014	1123	1612119	38776	204	215163	5166	1396956	33610
2015	867	1261617	28866	160	174592	4017	1087025	24849
<b>Total</b>	<b>2900</b>	<b>4617433</b>	<b>110665</b>	<b>510</b>	<b>831621</b>	<b>19859</b>	<b>3785812</b>	<b>90806</b>

102. The Finance Division stated that WIPO is subject to financial institutes regulations which prevent requesting customers to make up for credit card commissions and that in case of a refund of fees which was initially made through credit cards by the customers, the commission would be recovered proportionally from the credit card commission originally charged by WIPO's Credit card providers at the time of payment of fees.

103. As the recovery of credit card charges could happen only when there were refunds to parties, WIPO had to bear charges of 90,806 Swiss francs (110,665-19,859), due to regulatory challenges in implementing Rule 10 of the Supplemental Rules for UDRP in the event of credit card payments.

### Recommendation 14

**WIPO may review its general payments policy relating to incoming AMC payments.**

104. WIPO stated that they generally were in the process of reviewing its general payments policy, which would also provide an opportunity to review the status of incoming AMC payments.

## **Risk Assessment and Internal Control**

### **The Accountability Framework and the Risk Register**

105. Risk Management and Internal Control Environment forms part of the WIPO's Accountability Framework. The Risk Management System consists of Risk Assessment, Control Activities, Information and Communication Monitoring. The biennial Program and Budget sets out the organizational Expected Results (organized by the prevailing strategic goals) to be achieved in a given biennium. Annual results-based work plans at the organizational unit level and aligned individual staff objectives are instrumental for the implementation of the biennial Program and Budget, for which unit managers and staff are respectively accountable.

106. The system of WIPO Risk identification was not included in Programme and Budget 2012-2013. However, in Program and Budget 2014-2015 and 2016-2017, the risks were identified with mitigation strategies.

### **Risk Register**

107. Analysis of the AMC's risk register for the years 2013 to 2015 showed (**Annexure II**) that:

- i. The risk owners for risk Nos 07.0027.003 and 07.0027.004 were other than the AMC in 2013 and 2014. However, the risk register did not indicate whether they had owned these risks and the relevant mitigation strategies.
- ii. The mitigation strategies as per Risk Register 2013 did not mention any timeline for the actions to be taken.
- iii. The mitigation strategies for risk No 07.0027.002 needed to be in conjunction with HRMD (Action owners) and, mitigation strategies for risk No 07.0027.003 and 07.0027.004 needed to be in conjunction with ITCD (Action owners). However, these facts were not indicated in the risk registers.
- iv. No action owner has been mentioned for any of the Mitigation Strategies in 2013 and 2014.

108. The AMC replied that the WIPO Risk Register was introduced in 2012. In the Risk Register for 2014, 2015 and 2016, a Risk Owner was identified for each Program Risk. The AMC's entries were completed for annual work planning and reviewed periodically in

coordination with the Administration and Management Sector and risks and mitigation strategies were approved in accordance with the delegation for authority.

### **Recommendation 15**

**The AMC may ensure completion of the Risk Register showing important details like risk owners, timelines, action owners for the risk mitigation strategies.**

109. WIPO stated that to the extent outstanding, AMC would take up this recommendation with the Department of Program Planning and Finance in the course of the current review of risk registers.

### **Complaints and Response Mechanism**

110. We were informed that no complaint has been received in the years 2013-15 and any complaints received would be referred to the AMC's management, investigated and replied as promptly as possible in accordance with the WIPO Service Charter.

111. We observed that there was no formal mechanism for redressal of complaints in place and complaint register was not maintained in the AMC.

112. AMC replied that especially in the context of case administration, AMC put high priority on preventing and addressing complaints for optimal customer service. To this end, AMC maintained a range of protocols and procedures (including the WIPO Service Charter).

### **Recommendation 16**

**The AMC may continue to upgrade the protocols and procedures on preventing and addressing complaints for optimal customer service.**

113. WIPO stated that AMC would continue to upgrade these procedures.

### **Business Continuity Plan**

114. The Business Impact Analysis (BIA) of the AMC was revised on 27 October 2015. The BIA lists out the critical functions of the AMC and the impact if they fail. This document also talks about the thresholds in terms of Maximum Acceptable Outage, Recovery Point Objective, Recovery Time Objective and Minimum Business Continuity Objective.

115. The AMC has two main IT systems to handle arbitration and mediation and UDRP cases. IT system downtime of servers and email facilities and loss of data is identified as a

Risk as per Risk Register. The impact of this risk is assessed as critical and the likelihood as high. Mitigation strategies include optimization of existing resources, seeking additional IT resources for documented IT needs, backup systems and IT protocols, *etc.*

116. We observed that in the AMC, system logs/audit logs/Exception Reports were maintained by WIPO ICTD and were not kept by the AMC. It was also noticed that few cases of outage/IMAP Protocol failure/slow response of applications were reported in the AMC.

117. The AMC did not have a Business Continuity Plan (BCP) showing alternative arrangements and back up plans in case of a failure of one of the critical processes.

118. The AMC replied that IT systems undergo, prior to deployment in production, the requisite IT security compliance procedures, as undertaken by the WIPO Security and Information Assurance Division. Moreover, all systems are overseen by WIPO ICTD.

### **Recommendation 17**

**The AMC may frame a Business Continuity Plan, along with Business Impact Analysis, showing alternative arrangements and back up plans in case of a failure of one of the critical processes.**

119. WIPO stated that it is taking active part in the WIPO process underway which will lead to the finalization of BCP for discreet organizational units, including the AMC. They confirmed that WIPO will create a template for Continuity Plans, which will be provided to the individual Program Managers by July 2016.

## **Travel and Fellowships**

### **Background**

120. The Human Resources Management Department (HRMD) is responsible for ensuring that WIPO has the human resources necessary to fulfill its mandate, through global sourcing of talent, by providing, *inter alia*, an enabling working environment and best employment practices. This, in turn, envisages effective administration of staff entitlements including travel costs towards missions, events and so on.

121. The budget resources for Travel and Fellowship component in the 2014-2015 Program and Budget had been provided under all the 29 Programs within the nine Strategic Goals and comprised of Interns, WIPO Fellowships, Staff Missions, Third Party Travel and

Course Fellowships. While the total budget during 2014-2015 under Interns and WIPO Fellowships was six Million Swiss Francs showing an increase of 53 *per cent* over 2012-2013 budget after transfers, the Travel and Fellowships was budgeted at 37.85 Million Swiss Francs which was lesser by 15 *per cent* over 2012-2013 budget after transfers.

### **Non-compliance of Provisions Relating to Change Request for Travel Itinerary**

122. In relation to claims of a staff member and/or dependants for travelling in connection with joining the duty station, the Staff Regulations and Rules (SRR) provide, *inter alia*:

- When a staff member requests a standard of accommodation or condition of travel in excess of his or her entitlement, or is authorized to travel, for reasons of personal preference or convenience, by other than the approved route or mode of transportation, the staff member shall only make such changes after the ticket has been issued. The staff member shall be required to pay any additional costs thus incurred before receiving the revised ticket.
- In the case of assignment to another duty station, the International Bureau shall pay the travel expenses of a staff member's dependants either from the place of recruitment or from the place of his or her recognized home. Should a staff member wish to bring any dependants to the official duty station from any other place, the travel expenses borne by the International Bureau shall not exceed the maximum amount that would have been payable if those dependants had traveled from the place of recruitment or recognized home.

123. A scrutiny of the travel claims showed that in one case the travel was undertaken by a Staff Member's dependant from a place other than the recognized home station to Geneva, the official duty station. It was seen that immediately after the creation of Travel request, the same was amended on the basis of Staff Member's request for change of travel origin requiring approval of the competent authority, which was accorded after two weeks. Since the air fare (economy class) between the recognized home station and Geneva has increased as on the date of HRMD's approval, the staff member was allowed the lesser cost that was booked for travel in Business Class. Allowing a change request before issue of ticket was in contravention of extant rules.

124. While admitting the adverse impact of the delay in TA approval on ticket prices, WIPO attributed the same to wholesale appointment of Senior Management Team and rush of travel requests occurring at the same time.

### **Recommendation 18**

**WIPO may enforce the Staff rules relating to acceptance of change requests in travel dates / destination only after issuance of tickets and any cost difference may be borne by the staff member, if such change request has not been required by WIPO.**

125. WIPO agreed with the recommendation.

### **Payments for Agent Assisted bookings**

126. WIPO entered into a contract with a firm to provide travel agent and visa processing services in respect of all official and non-official travel made by WIPO travelers for a period of three years from 1 June 2014 till 31 May 2017 with possible two extensions of two years each. The contract specified that WIPO would have its own Online Booking Tool (OBT). As per contract, the contractor will provide single point of entry through OBT for both on-site booking (for simple round trips) and off-site booking (for multi-destination trips or more complex itineraries). Further, exceptions for certain types of travel will be handled outside the OBT, as purely offline. The 'per transaction' agency fee was fixed at 23.40 Swiss francs for bookings through OBT and at 134.15 Swiss francs for offline booking.

127. Data relating to travel tickets booked through OBT as well as offline and the transaction fees paid to the travel agent during the biennium 2014-2015 is given in the following table:

Year	No. of tickets				Total Transaction Fees paid (Swiss francs)
	Tickets – Agent Assisted <sup>2</sup>	Booked Online	Booked Offline	Total	
2014	13	327	2,667	3,007	387,390
2015	184	2,335	1,588	4,107	328,418
<b>Total</b>	<b>197</b>	<b>2,662</b>	<b>4,255</b>	<b>7,114</b>	<b>715,808</b>

<sup>2</sup> The 'Agent Assisted' tickets were those which were booked online through OBT, but for technical reasons got blocked in the system queue and did not get issued automatically. The online support team of the travel agent then intervened manually for their issuance.

128. We observed that for the purpose of paying ‘per transaction’ fees to the contractor, WIPO equated ‘Agent Assisted’ bookings with those booked offline though the booking process was carried out in OBT till the last stage and it required only a ‘push’ by the travel agent to complete the transaction. Consequently, a payment of 26,428 Swiss francs was made to the agent on these bookings.

129. Since the contract with the travel agent provided for only two kinds of booking, *viz.*, Offline and Online, payment of transaction fee for ‘Agent Assisted’ bookings and that too at rate equivalent to that of Offline bookings, was beyond the scope of the contract. We feel that as the trend had started in August 2014 itself, corrective action of re-negotiation of contract could have been envisaged as early as in September 2014.

#### **Recommendation 19**

**WIPO may take early steps to address the technical problems in booking of online tickets and in the interim may negotiate a minimum transaction fee for ‘Agent assisted’ bookings with suitable contract revision.**

130. WIPO stated that it would continue to work on solving solutions, and agreed to include the interim fee through suitable modifications in the contract.

#### **Repatriation Subsequent to Return from Home Leave**

131. The SRR stipulate that a staff member meeting the required conditions shall be entitled to home leave if the Director General expects that he or she will remain in the service of the International Bureau for at least six months beyond the date of his/her return from such leave. Further, Staff members who abandon their post or who resign before completing one year of service or within six months following the date of return from home leave shall not normally be entitled to payment of return travel expenses for themselves or their dependants.

132. Scrutiny of the claims relating to Home leave and Repatriation revealed that a staff member had availed Home Leave from 15 August 2014 to 8 September 2014. Subsequently, the staff member proceeded on repatriation with effect from 12 February 2015. However, WIPO allowed return travel though the staff member had lost the entitlement to the return travel.

133. WIPO accepted that there was a violation of the Staff rules in the instant case and stated that as a consequence, measures were put in place as Internal HR checklist has been updated to include checking that the staff member has remained at least six months after return from home leave and separation formalities list which is issued to the Staff Member has been elaborated to include the above issue.

### **Recommendation 20**

**WIPO may explore possibility of incorporating a control trigger in e-Works system at the time of processing travel claims relating to repatriation, so that six-months home leave rule is automatically complied with.**

134. WIPO stated that HRMD and Administrative Enterprises Resource Planning System would work in close collaboration with Procurement and Travel Division (PTD) to identify an integrated solution permitting HR-related control triggers between Peoplesoft HR and the replacement system for E-work.

### **Delay in Creation of e-TA by Staff Members**

#### **Home Leave**

135. The OI No.22/2014 dated 31 March 2014 stipulates that an e-TA for Home Leave shall be submitted to the Travel and Missions Support (TMS) Section via HRMD at least six weeks but not earlier than six months prior to the travel date. Unless justified by exceptional circumstances, any e-TA submitted outside of this period shall be rejected.

136. Scrutiny of the data relating to creation of e-TA for years 2014 and 2015 revealed that in respect of 118 cases of Home Leave Travel, the e-TA creation date was less than six weeks of the date of theoretical departure<sup>3</sup>. Similarly in respect of seven cases, the e-TA creation date was earlier than the stipulated six months. In all these cases, there was no evidence that they were justified by exceptional circumstances. The delays in creation of e-TAs may have impact on the cost of tickets on account of timing of the purchase of the ticket.

#### **Staff Mission**

137. The OI No.29/2013 Rev. dated 8 July 2014 stipulates that all tickets for Official Travel shall be purchased by the International Bureau at least 10 working days in advance of

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<sup>3</sup> *The date of departure proposed in e-TA, which in majority of cases would be the actual date of departure.*

travel. In the case of Event Related (ER) travel, the e-TA shall be created immediately following the certification of ER and tickets shall be purchased immediately upon certification by the TMS Section. It further stipulates that the e-TA must be received by TMS Section a minimum of 10 working days prior to the travel date. However, scrutiny of the data for the biennium 2014-2015, revealed that in respect of 440 cases, the e-TA creation date was less than 10 days from the date of theoretical departure.

138. WIPO admitted to the delays in creation of e-TAs and their impact on the cost of tickets on account of timing of the purchase of the ticket. WIPO further stated that corrective measures have been implemented in the form of quarterly and half-yearly details of late travel submissions being communicated to every member of senior management team and the Director General. WIPO also informed that on account of increasing the minimum time limit for e-TA submissions and of including the non-staff e-TAs, the rate of late travel submissions was decreasing year over year and remained one of the best in the different IOG in Geneva.

139. We observed that the corrective measures adopted have not had significant impact, as the number of delayed e-TA in case of Home leave increased from 50 in 2014 to 74 in 2015 and in case of Staff Missions there was no improvement.

### **Recommendation 21**

**WIPO may continue to adopt effective measures in enforcing the stipulated time schedule for submission of e-TAs so that relevant rules are implemented leading to cost savings on timely purchase of tickets.**

140. WIPO stated that measures would be taken to underline to staff the timelines for the creation of e-TA for Home Leave. WIPO would review as to how these time limits could be better implemented and allow for only exceptions.

### **Education Grant Travel**

141. The SRR stipulate that the cost of education grant travel (EGT) will be reimbursed only if the child stays for a period of at least seven working days at the travel destination.

142. Scrutiny of the travel claims sanctioned (2014-2015 biennium) under EGT revealed that in respect of two cases, the stay at the duty station was less than the prescribed limit of seven working days.

143. WIPO justified acceptance of these non-compliant claims on the ground that the costs to WIPO was lesser than what it would have been had the rules been complied with.

### **Recommendation 22**

**WIPO may ensure that the admission of Education Grant travel claims is compliant with its rules on the minimum stay requirements.**

144. WIPO stated that HRMD and ADM-ERP would work in close collaboration with PTD to identify an integrated solution permitting HR-related control triggers including that for minimum stay requirements between Peoplesoft HR and the replacement system for E-work.

### **Submission of Final Travel Claims**

145. The SRR stipulate that all staff members must provide proof of travel and submit the travel claims within three calendar weeks following the trip. If the travel claim is not submitted in time it will be assumed that the trip was not undertaken and the travel advance will be charged to the staff member's salary.

146. An analysis of the data relating to 3,658 official travels pertaining to the biennium 2014-2015 revealed that in 851 cases, the Staff members did not submit the final travel claims within the prescribed period of three weeks from the date of return and the delay ranged from one to 251 days. Further, in respect of six travels, including three pertaining to travel performed in 2014, the final claims were yet to be submitted by the staff members (March 2016).

147. The Management stated that weekly reminders were issued through e-Works System. Often there were extenuating circumstances (back to back missions, sickness, missing travel stubs to locate, *etc.*), and at the end of year, Finance made major push to finalize outstanding claims related to closure process. They added that since last year the submission of Travel Mission Report and the final travel claims were disconnected in order to have faster claim submissions.

148. While acknowledging the initiative taken by the management, we consider that there is a need to further strengthen the controls relating to travel claims, as delay of more than a year does not seem justifiable.

### **Recommendation 23**

**WIPO may enforce provisions of the SRR which contemplate charging the travel advances to the staff members' salary, so as to mitigate the delays in submission of Travel Claims by the Staff Members.**

149. WIPO stated that they would investigate the configuring of current or future systems to escalate the severity of the reminders for delayed submission of travel claims and that at the time of issuing third reminder to the defaulting staff member, WIPO would take action either to block further advances or to deduct the advance already paid from the salary. They proposed to change the wording of Office Instructions to permit Finance to block advances for future missions for staff members who have not submitted travel claims within three calendar weeks of travel.

### **Allowance of One-Way Travel Fare**

150. Scrutiny of a claim pertaining to a dependant's travel claims under "Join to duty station" category revealed that though the dependant was entitled to 'one-way' fare in Business Class, the re-imbusement of 'two-way' air fare in Economy Class was allowed on the grounds of the same being economical. Similarly, a Fellow had been exceptionally authorized on repatriation to purchase a return ticket Geneva-USA-Geneva, as the cost was cheaper than a one-way fare.

151. WIPO replied that the staff member being new was not aware of the rules and had already purchased the return ticket. Consequently, WIPO allowed the reimbursement of the same on the understanding that often the one way ticket is almost as expensive as return ticket. They added that the tickets were purchased by the Fellows themselves and reimbursed by WIPO based on the principle of most direct route, and most economical fare.

152. We are of the view that the SRR does not provide for the payment of two-way air fare to either repatriating Staff members or Fellows.

## **Recommendation 24**

**WIPO may enforce the provisions of the SRR relevant to travel claims of newly recruited or repatriating Staff Members / Fellows, especially with regard to allowance of single way travel fare.**

153. WIPO stated that it would enforce strictly the one way principle, and would discontinue the practice of granting a return ticket even though the same may be cheaper than the entitlement.

### **Provision of DSA on Board**

154. Rule 7.2.9 (d) of the SRR stipulates that DSA shall be deemed to comprise the total contribution of the International Bureau towards such expense as meals, lodging, gratuities and payment of miscellaneous services. Accordingly, when meals and lodging are provided free of charge by official sources, the standard rate of DSA shall be reduced by 80 *per cent*. On the other hand, Rule 7.2.11 (b) (1) (i) of the SRR stipulates that if the traveler spends the night in the aircraft and thereby does not require sleeping accommodation for the night traveling, 50 *per cent* of the DSA shall be paid for that day.

155. We are of the view that in case of air travel of longer duration and involving night travel, the meals and lodging are taken care of by the airlines. Accordingly, the extant provision of Rule 7.2.11 (b) (1) (i) for paying 50 *per cent* on-board DSA is inconsistent with provision of Rule 7.2.9 (d).

156. WIPO replied that the principle of half of a DSA for nights spent on-board was implemented since March 2012 with a view to progressively align on the most common UN rules in terms of travel. They added that in cases of night travel of shorter duration or where the arrival is in middle of the night, the Staff would incur at least meal costs before and after the flight and would need a hotel to spend the remainder of the night. Hence taking into account these situations, WIPO justified having one harmonized rule by removing the 50 *per cent* lodging part of the DSA but leaving something for other costs.

157. We are of the opinion that in view of the provisions of the SRR, on-board DSA to Staff needs a review by WIPO. Further, in the UN system, no on-board DSA is payable to the travelers.

## **Recommendation 25**

**WIPO may review its travel policy in regard to payment of 50 per cent of the DSA for the night spent in the Aircraft.**

158. WIPO agreed to give further consideration to the recommendation.

### **Exceptions to Travel in Business Class**

159. OI 29/2013 dated 14 October 2013 indicate the route, mode and conditions of transportations as given below:

- Travel shall be by the most direct, economical route and mode of transportation. Exceptions may be made only if the Director General considers that the use of an alternative route or mode of transportation is in the interest of the Organization.
- Unless the use of another mode of transportation is specifically authorized, Official Travel mode shall be by air:
  - a. for travel lasting fewer than nine hours (including transit), WIPO staff shall travel in economy class;
  - b. for travel lasting more than nine hours (including transit), WIPO staff will be authorized to travel in business class.

160. An analysis of the data on exceptions pertaining to travel claims of 2014 and 2015 revealed that 35 travel claims involved change of class from economy to business that were exceptionally permitted by DG.

161. WIPO justified the exceptions by stating that they were dealt with on case to case basis depending on the circumstances ranging from medical reasons, timing of arrival, travelers' choice of airlines to safety / security concerns, especially when more than one Staff member travel together on Missions.

162. We observed that there did not exist any office instructions for allowing exceptions to class of travel, in the absence of which, these cases contravened the provisions of Rules.

## **Recommendation 26**

**WIPO may consider issuing clear instructions for providing exceptions to the change in Class of Travel. Pending amendment to the Instructions, WIPO may consider enforcing extant rules.**

163. WIPO stated that they would review, with the help of the legal adviser, if there is a need for clarifying the possibility and the authority of upgrading the class of travel indicated in the existing OI. If the need is demonstrated, the OI will be amended accordingly.

### **Choice of Carriers**

164. The SRR and OI No 29/2013 dated 14 October 2013 stipulate that:

- a. When a staff member requests a standard of accommodation or condition of travel in excess of his or her entitlement, or is authorized to travel, for reasons of personal preference or convenience, by other than the approved route or mode of transportation, the staff member shall only make such changes after the ticket has been issued. The staff member shall be required to pay any additional costs thus incurred before receiving the revised ticket.
- b. Further, choice of carrier will be permitted in cases where the cost does not exceed 10 *per cent* of the most economical and direct route and provided that the ticket is issued at least 10 working days prior to the date of travel, otherwise no choice will be permitted.

165. Scrutiny revealed that a staff member was allowed change of carrier before issue of tickets by WIPO, as well as benefit of 10 *per cent* of the cost of the Airlines fares indicating the same as his entitlement.

166. WIPO stated that the trip was undertaken in 2014 when WIPO did not have an OBT where the flights with fares 10 *per cent* on top of the reference price were proposed and the same would have appeared within the policy.

167. The reply suggested that in case of offline travel Staff Members were allowed for opting change of carrier before issue of ticket with the provision of benefit of 10 *per cent* on the cheapest available fare.

### **Recommendation 27**

**WIPO may review its practice of allowing the staff member choice of carriers before the issue of the ticket and passing on the benefit of 10 per cent margin to the travelers.**

168. WIPO agreed that, in principle, the strict implementation of the office instructions would be ideal and it would review whether the Rules needed to be amended or how the implementation of these provisions could be done for the off line bookings.

### **Non Closure of Non-Staff TA Claims**

169. We observed that instructions issued for creation of e-TA for non-staff members were silent about closure of the e-TA. During scrutiny of 20 cases of non-staff TA claims, we noticed that in three cases the DSA admitted appeared to be in excess of the event days. In the absence of closure of e-TA created for non-staff, the mode of recovery of DSA paid in advance could not be confirmed.

### **Recommendation 28**

**WIPO may consider issuing suitable instructions for closure of travel claims of the Third Party travelers after completion of the events.**

170. While agreeing to look at the IT alternatives in the future e-works replacement to implement a formal closure of the non- staff TA, WIPO stated that pending future system development they would use the functionalities available in current system to indicate when non-staff travel is finished.

### **Travel Claims of Fellows**

171. WIPO Fellowship Policy stipulates that “Travel expenses on recruitment and separation from service may be payable depending on the conditions of the individual fellowship”. In case of interns, WIPO shall not be responsible for arranging travel, visas and/or accommodation nor shall WIPO cover any related costs.

172. A test check of sample cases revealed that in the case of a Non-staff member who was contracted for Fellowship with effect from October 2013, in continuation of Special Labour Contract, WIPO sanctioned a lumpsum payment of 5,000 Swiss francs towards ‘travel and excess baggage expenses’ which he had incurred to come to WIPO, Geneva. However, it is observed that the Fellow was recruited in WIPO as an Intern in April 2011 and as such was

already staying in Geneva on the date of sanction of lumpsum payment in January 2013. Moreover, the travel and baggage expenses of 5,000 Swiss francs pertained to his recruitment as an Intern, when he was not entitled for the claim as per the extant Internship Policy guidelines.

#### **Recommendation 29**

**WIPO may review relevant policy guidelines relating to travel claims of Fellows serving concurrently from the post of Intern/Special Labour Contractor/Individual Services Contractors.**

173. WIPO agreed to review the terms of the Fellowship package offered to all SLC contract holders in the Arbitration and Mediation Center at the time.

#### **Cancellation of Tickets on Personal Grounds**

174. We observed that the existing regulations and rules were silent about accounting of costs on account of cancellation of tickets by staff members on personal grounds. Test check of Travel claims revealed that a case of TA under ETG was processed for journey in April 2015 which was cancelled twice on behalf of staff members on personal grounds and recovery of cancellation charges was not effected from the staff member.

175. WIPO agreed that there was a need to include provision of penalties/cancellation charges in WIPOs rules and instructions in such cases.

#### **Recommendation 30**

**WIPO may consider including necessary provisions in the Regulations/Rules/OIs towards recovery of the cost of the cancellation of tickets from the concerned staff members wherein cancellation is due to personal reasons.**

176. WIPO accepted the recommendation.

#### **Cases of Frauds and Presumptive Frauds**

177. Analysis of the information on fraud/presumptive fraud provided by the office of the Director, Internal Oversight Division indicated that 13 new cases relating to fraud or presumptive fraud were registered in 2015 and 10 cases were closed. As at 31 December 2015, the number of open fraud or presumptive cases was seven.

### **Review of Management Action on Past Recommendations**

178. The status of implementation of the External Audit Recommendations (Financial Audit) by WIPO is enclosed as an **Annexure III** to this Report.

### **Disclosures by Management - Write-off of Losses of Cash, Receivables and Property**

179. The Management informed that in accordance with Financial Regulation 6.4, Financial Rule 106.8, the following losses have been recorded by the Organization during the year ended 31 December 2015:

- Accounts receivable totaling 1,308 Swiss francs were written off during 2015. This concerned seven unpaid invoices dating from 2014, relating to Trademarks, Industrial Designs and Publications activities;
- Salary advances to staff totaling 41,980.70 Swiss francs were written off during 2015. This concerned amounts paid to five former staff members during 2013; and
- Other small losses incurred throughout the year, principally on payments against accounts receivable, totaled 22,451.79 Swiss francs.



Shashi Kant Sharma  
Comptroller and Auditor General of India  
External Auditor  
New Delhi, India  
4 July 2016

**Annexure-I**

**Result Framework for AMC for the Biennium 2012-2013 to 2016-2017**

<b>Expected Result: International and domestic intellectual property disputes are increasingly prevented or resolved through mediation, arbitration and other alternative dispute resolution methods</b>					
<b>Indicator</b>	<b>Targets for 2012/13</b>	<b>Achievement of Targets</b>	<b>Target for 2014/15</b>	<b>Achievement of Targets</b>	<b>Target for 2016/17</b>
<b>Performance Indicator: The Center supports the resolution of an increasing number of disputes through its alternative dispute resolution services and resources</b>					
<b>Additional disputes</b>	20 additional disputes and bons offices	106	40 additional disputes and bons offices	18 (2014) & 29 (2015)	40 additional disputes and bons offices
<b>Bon offices</b>		30		53 (2014) & 53 (2015)	
<b>Additional queries</b>	4000	4000	4000	3,725 (2014)	4000
<b>Web visits</b>	3.0 million	3.5 million	3.5 million	1.6 million (2014)	1.5 million
<b>Participants in Center standard events</b>	250	408	250	138 (2014)	250
<b>Participants Center external events</b>	6000	4000	6000	4,300 (2014)	6000
<b>Performance Indicator: Alternative dispute resolution policies to the development and implementation of which policies the Center has contributed</b>					
<b>Schemes adopted</b>	1-3 additional schemes	4 schemes	1-3 additional schemes	5 additional schemes adopted	1-3 additional schemes
<b>Expected Result: Effective intellectual property protection in gTLDs and ccTLDs</b>					
<b>Number of gTLD UDRP cases administered</b>	3500	4806	3000	3843 gTLD cases in 2014/15 up to September 2015	3000
<b>Number of ccTLD UDRP-based cases</b>	350	663	350	597 ccTLD cases 2014/15 up to September 2015	350
<b>Dispute resolution policies in the DNS to the development and implementation of which policies the Center has contributed</b>	Implementation in the Domain Name System of WIPO policy and process recommendations	Accreditation of WIPO Center for ICANN Pre-Delegation LRO Accreditation of WIPO Center for ICANN TMDDRP	Implementation in the Domain Name System of WIPO policy and process recommendations	Continued applicability of UDRP, ICANN Pre-Delegation Dispute Resolution Policy, ICANN TMDDRP (no additional policies or recommendations to be implemented)	Implementation in the Domain Name System of WIPO policy and process recommendations
<b>Number of ccTLD administrators with WIPO-assisted design or administration of intellectual property protection mechanisms in accordance with international standards</b>	6	5	4	2 (2014)	2 to 4

**Annexure –II**  
**Risks for 2013-15 as shown in Risk Register**

<b>Risk Id</b>	<b>Description</b>	<b>Impact on</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Owner</b>
<b>07.0027.001</b>	Shifting resource comparison with other ADR providers affects market recognition of WIPO arbitration and mediation services.	Expected Result (ER)-1	3	3	AMC
<b>07.0027.002</b>	Loss of core staff as a result of uncertain career prospective affects case processing capacity and the meeting of new policy needs	ER-1 & 2	3-4	3	AMC
<b>07.0027.003</b>	Insufficient IT resources compromise capacity to provide quality domain name case administration services in accordance with relevant rules and regulations	ER-1 & 2	3-4	3	Others
<b>07.0027.004</b>	IT system downtime, in particular of servers and email facilities and loss of data may compromise capacity of provide domain name case administration services in accordance with relevant rules and regulations	ER-1 & 2	3-4	3	Others
<b>07.0027.005</b>	Fragmentation of and competition within DNS, and ICANN policy development processes, pressuring centralized norms (including UDRP) and Center primacy; DNS expansion and increased ADR use in DNS challenging Center case administration and policy development roles.	ER-2	3-4	2	AMC
<b>07.0027.006</b>	Increase in UDRP filings which may push resources beyond reasonable capacity impacting quality and reputation of	ER-2	3	3	AMC
<b>07.0027.007</b>	URS use causing decrease in UDRP filings, affecting WIPO DNS policy influence and Centre Status in DNS ADR	ER-2	3	2	AMC
<b>07.0027.008</b>	Owing to dilution by ICANN actors, policy advance which Post-Delegation mechanism represents in principle becoming undercut with trademark owners instead turning to courts	ER-2	3	2	AMC

**Annexure-III**

**Status of implementation of the External Audit Recommendations by WIPO**

<b>Audit</b>	<b>Recommendation</b>	<b>Management Response</b>	<b>Remarks</b>
Financial Audit	WIPO may expedite the process of reconciliation of outstanding claims with US Tax authorities.	<p>The US has confirmed agreement with the format of the 2013-2014 reclaim data. As such, we have requested our CPA compile, as previously agreed:</p> <ul style="list-style-type: none"> <li>• Claim for Tax Years 2009-2011 (Original Invoice Date 31 October 2012) \$649,054</li> <li>• Claim for Tax Years 2011-2012 (Original Invoice Date 5 November 2013) \$867,115</li> <li>• Claim for Tax Years 2012-2013 (Original Invoice Date 17 November 2014) \$1,051,107</li> </ul> <p>After which, we aim to address claims prior to 2012 (also as originally agreed).</p> <p>The US has stated, on 13 April 2016, that they are in the process of executing a payment to WIPO for \$778K, pertaining to the more detailed taxpayer data we provided to them for 2014. WIPO's CPA is compiling the information as requested by the US for prior tax years 2009-2013, as well as for certain 2014 claims for which the US has further questions. The US stated in an email received 21 December 2015 that claims prior to this will then be addressed and a determination could be made as to closing the recommendation.</p>	<b>Ongoing</b>
Financial Audit	WIPO may disclose details of heritage assets including works of art in the Notes to the Financial Statements and may take steps for strengthening the security systems to prevent further loss of such assets.	<p>We have discussed this issue at the October 2015 UN Task Force on Accounting Standards meeting. Based on the responses we received from other UN Organizations, we understand that no other organizations are disclosing details of heritage assets in the notes to their financial statements.</p> <p>We have also reviewed the work of the IPSASB on the issue of heritage assets. A project is currently ongoing to develop accounting requirements for heritage assets. A consultation paper will be developed, and that is expected to lead to an exposure draft of</p>	<b>Ongoing</b>

		<p>proposed revisions to IPSAS 17, Property, Plant and Equipment (or other IPSASs). A Recommended Practice Guideline may also result. A second issues paper was presented at the IPSASB meeting in December 2015, and a third issues paper shall be presented at the March 2016 meeting of the IPSASB.</p> <p>Based on the work performed above, we would prefer to wait for the outcome of the IPSASB heritage assets project before considering changing our accounting and disclosure policy with regard to heritage assets.</p> <p><b>Strengthening Security Systems:</b> A new office instruction (No. 49/2015) entitled WIPO Policy on Property Management was published on December 21, 2015. In accordance with this, the Premises and Infrastructure Division is responsible for managing the works of art and for implementing the decisions taken in relation to placement of works of art out of storage.</p>	
Financial Audit	<p>WIPO may consider preparing the Program Performance Report before the conclusion of financial audit or provide explanation for the variance between budget and actuals in the financial statements in compliance of IPSAS 24.</p>	<p>Draft resource explanations prepared for the PPR was shared during the audit.</p> <p>As recommended by the External Auditors, the relevant data from the Program Performance Report has been prepared for inclusion in the financial audit - before the conclusion of such audit, with appropriate explanations for the variance between budget and actuals in the financial statements in compliance of IPSAS 24.</p>	<b>Implemented</b>
Financial Audit	<p>The International Bureau may consider intensifying its efforts to receive fees from Intellectual Property Offices timely.</p>	<p>The International Bureau (IB) has been continuously working with the State Intellectual Property Office of the People's Republic of China (SIPO) on the timeliness of the transmittal of PCT fees. Since the middle of 2015, SIPO has made further significant progress in transferring the PCT fees. The timeliness of transmittal of the fees from SIPO to the IB is now within two months (or less) from the end of the month where the fee is due to be paid, or two months after receipt of the fees from the applicants. For example, SIPO has transferred on August 21,</p>	<b>Implemented</b>

		<p>2015, the fees for the applications that were filed in May 2015 and were due to be paid in June 2015, and on December 30, 2015, the fees for the applications that were filed in November 2015. On December 30, 2015, transmittal was done even much earlier, although it was normally due only in January or February 2016.</p> <p>For those Receiving Offices (ROs) which have to convert the fees from the currency in which the applicants pay to Swiss franc, USD or EUR for the transmittal to the IB, transmittal of the fees to the IB within two months after the receipt of the fees from the applicants, which is one month more than the offices which do not need to convert the currency, is general practice.</p> <p>We therefore consider the current timeline for the transmittal of the fees from SIPO to the IB, that is two months after receipt of the fees from the applicants (one more month longer than the offices which do not need to convert the currency), to be normal, and consider the recommendation to be closed.</p> <p>The International Bureau will, as part of its regular day-to-day activities, continue to monitor the timeliness of the transmittal of the PCT fees from the ROs to the IB and contact the ROs concerned promptly whenever the transmittal of fees is delayed.</p>	
Financial Audit	The Management may consider formulating and implementing an appropriate Treasury and Cash Management policy including borrowings to improve the financial management.	A Treasury and Cash Management Policy was prepared by external treasury specialists in early 2014 and submitted to WIPO. A few weeks later the Swiss authorities informed the Organisation that it would no longer be able to place monies for deposit with the authorities and that all such monies would have to be withdrawn by December 2015. This development requires significant changes to the investment policy and possibly also to the counterparty risk policy, both of which are contained within the Treasury and Cash Management Policy. As a result, document WO/PBC/22/19 was submitted to the PBC in September 2014 requesting	<b>Ongoing</b>

		<p>guidance concerning the amendment of the investment policy. The PBC's decision was to request 'the Secretariat to submit a detailed proposal on the revised version of the policy at its next session following review and clearance by the Investment Advisory Committee and to undertake an Assets and Liability Management study and submit a separate investment policy for ASHI financing, following its review and clearance by the Investment Advisory Committee'. Work is currently ongoing with regard to revising the investment policy and to preparing a separate ASHI investment policy. The Investment Advisory Committee is to organize a meeting(s) with an external expert(s). A search for a Treasurer ICS has been launched and the competition is ongoing.</p>	
Financial Audit	<p>The financial services should review and update the existing risk management framework in place to develop suitable risk registers and internal controls in those operational units where they do not exist or exist partially.</p>	<p>With the assistance of an expert, all process maps for Finance processes have been reviewed and brought into line with standard process structure and format, and all internal controls have been identified and recorded in the Organization's Enterprise Risk Management (ERM) application. The next phase of this initiative will involve ensuring that all internal controls are linked to a formally recorded risk in the same application. Processes and related controls will continue to be reviewed and updated on a regular basis by the Finance Division.</p>	<b>Ongoing</b>
Financial Audit	<p>WIPO may ensure the creation of a separate reserve for the purpose of financing projects and reflect the same separately in the financial statements to provide a better understanding of the transactions related to the utilization of accumulated</p>	<p>Matter regarding creation of special reserve was presented at the September Program and Budget Committee. PBC at its 22<sup>nd</sup> Session: (i) recognized the need to undertake a review of the policies on Reserves and Working Capital Funds; and (ii) requested the Secretariat to submit to the PBC a comprehensive policy proposal that includes target setting for the Net Assets, liquidity considerations and the management,</p>	<b>Implemented</b>

	surplus/reserves.	<p>use and reporting of the available surpluses above the target level, taking into consideration the MSs' comments and guidance and the recommendations of Audit and Oversight bodies in this respect.</p> <p>Therefore, following this decision, a document is to be submitted to the MSs in 2015 which will address various aspects of the use of reserves.</p> <p>Further to last update, the approved policy on the reserves has now been issued in the form of an Office Instruction as well. We request closure of the implemented recommendation accordingly.</p>	
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## MANAGEMENT'S RESPONSES TO THE RECOMMENDATIONS MADE BY THE EXTERNAL AUDITOR

### Recommendation no.1

*WIPO may devise a detailed mechanism to ensure that the revenue arising out of PCT international filing fees in any reporting year reconciles with the figure based on PCT applications published in that year.*

#### Response

WIPO agreed with the recommendation and stated that a more detailed analysis of total publications during the year would be included as part of the year-end procedures.

### Recommendation no.2

*WIPO may formalize suitable indicators and criteria that would guide it on the necessity of performing revaluation of the property, plant, and equipment each year.*

#### Response

WIPO accepted the recommendation and stated that suitable indicators and criteria would be formalized and that this would serve as the basis for concluding on the necessity of performing a revaluation of the land at each year-end.

### Recommendation no.3

*WIPO may reassess the useful lives of assets to reflect fair presentation and to achieve a reasonable estimate of useful lives of assets.*

#### Response

WIPO accepted the recommendation and stated that an analysis of useful lives would be undertaken during 2016.

### Recommendation no.4

*WIPO may consider devising a formal documented policy for write-off of amounts that it is unable to return to the applicants.*

#### Response

Accepting the recommendation, WIPO stated that Madrid system fees and the associated billing procedures were currently under review and that the need to devise a formal documented write-off policy would be considered as part of that review.

**Recommendation no.5**

*The AMC may continue to strengthen its mechanism of fixing realistic targets for Performance Indicators.*

**Response**

Accepting the recommendation, WIPO stated that AMC, when setting targets for Performance Indicators, closely monitored all the potentially impacting factors.

**Recommendation no.6**

*The AMC may adopt a more proactive approach to make WIPO's Alternative Dispute Resolution services, the system of first choice for users through attractive and cost-effective efforts. The efforts may, among others, include highlighting its strengths through publicity, carrying out survey to solicit feedback of its clients on its services on a regular basis and centrally analyze suggestions/feedbacks from customers.*

**Response**

Stating that the challenges presented by the existence of competition in this area of WIPO's activity had been identified in the WIPO Risk Register, WIPO agreed with the need for the full promotion of AMC's services. To this end, WIPO stated that the AMC would make optimal use of available resources.

**Recommendation no.7**

*The AMC may consider framing a more transparent and well-publicized policy setting out the process and the criteria for inclusion of neutrals in WIPO's list.*

**Response**

WIPO agreed with the usefulness of sharing further information on AMC's empanelment process.

**Recommendation no.8**

*The AMC may assess whether the current settlement rates are comparable to the standards in the market and may look at the possibility of fixing a benchmark to assess its performance on this front.*

**Response**

WIPO stated that WIPO-administered cases for settlement purposes would continue to be monitored and that, more generally, available market information would be assessed.

**Recommendation no.9**

*The AMC may strengthen its monitoring mechanism to reduce the time taken for providing UDRP services to its clients.*

**Response**

While agreeing with the recommendation, WIPO pointed out that a wide range of special domain name practices and case scenarios continued to emerge for which a one-size-fits-all approach to the UDRP Rules could not work.

**Recommendation no.10**

*The AMC may consider framing a long term IT investment plan, including for human resources.*

**Response**

WIPO accepted the recommendation and stated that AMC's IT needs were being addressed by PCT ISS both in terms of personnel and non-personnel resources.

**Recommendation no.11**

*The AMC may conduct skill gap analysis and impart training based on this analysis.*

**Response**

WIPO agreed with the recommendation.

**Recommendation no.12**

*The AMC may strengthen its mechanism for reconciliation of open items with Finance Division.*

**Response**

WIPO noted the recommendation.

**Recommendation no.13**

*The AMC may record all major factors in exercising the necessary discretion while fixing fees.*

**Response**

WIPO agreed that, in exercising the necessary discretion, specific factors may be recorded.

**Recommendation no.14**

*WIPO may review its general payments policy relating to incoming AMC payments.*

**Response**

WIPO stated that a review of the general payments policy was underway and that this would also provide an opportunity to review the status of incoming AMC payments.

**Recommendation no.15**

*The AMC may ensure completion of the Risk Register showing important details like risk owners, timelines, action owners for the risk mitigation strategies.*

**Response**

WIPO stated that to the extent outstanding, the AMC would take this recommendation up with the Department of Program Planning and Finance in the course of the current review of risk registers.

**Recommendation no.16**

*The AMC may continue to upgrade the protocols and procedures on preventing and addressing complaints for optimal customer service.*

**Response**

WIPO stated that the AMC would continue to upgrade these procedures.

**Recommendation no.17**

*The AMC may frame a Business Continuity Plan, along with Business Impact Analysis, showing alternative arrangements and back up plans in case of a failure of one of the critical processes.*

**Response**

WIPO stated that an active participation in the WIPO process was underway and that this would lead to the finalization of the BCP for discreet organizational units, including the AMC. It was confirmed that a template for Continuity Plans would be created and transmitted to individual Program Managers by July 2016.

**Recommendation no.18**

*WIPO may enforce the Staff rules relating to acceptance of change requests in travel dates / destination only after issuance of tickets and any cost difference may be borne by the staff member, if such change request has not been required by WIPO.*

**Response**

WIPO agreed with the recommendation.

**Recommendation no.19**

*WIPO may take early steps to address the technical problems in booking of online tickets and in the interim may negotiate a minimum transaction fee for 'Agent assisted' bookings with suitable contract revision.*

**Response**

WIPO stated that work on finding solutions would continue, and agreed that the interim fee would be included through suitable modifications to the contract.

**Recommendation no.20**

*WIPO may explore possibility of incorporating a control trigger in e-Works system at the time of processing travel claims relating to repatriation, so that six-months home leave rule is automatically complied with.*

**Response**

WIPO stated that HRMD and Administrative Enterprises Resource Planning System would work in close collaboration with Procurement and Travel Division (PTD) to identify an integrated solution permitting HR-related control triggers between Peoplesoft HR and the E-works replacement system.

**Recommendation no.21**

*WIPO may continue to adopt effective measures in enforcing the stipulated time schedule for submission of e-TAs so that relevant rules are implemented leading to cost savings on timely purchase of tickets.*

**Response**

WIPO stated that measures would be taken to underline to staff the importance of respecting deadlines in creating e-TAs for Home Leave. A review as to how these time limits could be better implemented, with only exceptions allowed, would be undertaken.

**Recommendation no.22**

*WIPO may ensure that the admission of Education Grant travel claims is compliant with its rules on the minimum stay requirements.*

**Response**

WIPO stated that HRMD and ADM-ERP would work in close collaboration with PTD to identify an integrated solution permitting HR-related control triggers including that for minimum stay requirements between Peoplesoft HR and the replacement system for E-work.

**Recommendation no.23**

*WIPO may enforce provisions of the SRR which contemplate charging the travel advances to the staff members' salary, so as to mitigate the delays in submission of Travel Claims by the Staff Members.*

**Response**

WIPO stated that the configuring of current or future systems would be investigated so as to escalate the severity of the reminders for the delayed submission of travel claims and that at the time of issuing a third reminder to the defaulting staff member, WIPO would take action either to block further advances or to deduct the advance already paid from the salary. It was suggested that the wording of Office Instructions be modified in order to allow Finance to block advances for future missions for staff members who have not submitted travel claims within three calendar weeks of travel.

**Recommendation no.24**

*WIPO may enforce the provisions of the SRR relevant to travel claims of newly recruited or repatriating Staff Members / Fellows, especially with regard to allowance of single way travel fare.*

**Response**

WIPO stated that the one way principle would be strictly enforced, and that the practice of granting a return ticket even though the same may be cheaper than the entitlement would be discontinued.

**Recommendation no.25**

*WIPO may review its travel policy in regard to payment of 50 per cent of the DSA for the night spent in the Aircraft.*

**Response**

WIPO agreed to give further consideration to the recommendation.

**Recommendation no.26**

*WIPO may consider issuing clear instructions for providing exceptions to the change in Class of Travel. Pending amendment to the Instructions, WIPO may consider enforcing extant rules.*

**Response**

WIPO stated that the need for clarifying the possibility and the authority of upgrading the class of travel indicated in the existing OI would be reviewed with the help of the legal adviser, if necessary. Should the need be demonstrated, the OI would be amended accordingly.

**Recommendation no.27**

*WIPO may review its practice of allowing the staff member choice of carriers before the issue of the ticket and passing on the benefit of 10 per cent margin to the travelers.*

**Response**

WIPO agreed that, in principle, the strict implementation of office instructions would be ideal and that a review would be undertaken to establish whether the Rules needed to be amended or how the implementation of these provisions could be done for the off-line bookings.

**Recommendation no.28**

*WIPO may consider issuing suitable instructions for closure of travel claims of the Third Party travelers after completion of the events.*

**Response**

While agreeing to look at the IT alternatives in the future e-works replacement to implement a formal closure of non-staff TAs WIPO stated that, pending the development of future systems, the functionalities available in the current system would be used to indicate when non-staff travel was finalized.

**Recommendation no.29**

*WIPO may review relevant policy guidelines relating to travel claims of Fellows serving concurrently from the post of Intern/Special Labour Contractor/Individual Services Contractors.*

**Response**

WIPO agreed to review the terms of the Fellowship package offered to the concerned contract holders in the Arbitration and Mediation Center.

**Recommendation no.30**

*WIPO may consider including necessary provisions in the Regulations/Rules/OIs towards recovery of the cost of the cancellation of tickets from the concerned staff members wherein cancellation is due to personal reasons.*

**Response**

WIPO accepted the recommendation.

## **Statement on Internal Control for 2015**

### **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, 2015, and up to the date of the approval of the Organization's 2015 financial statements.

### **Risk Management and control framework**

Risk management has been fully integrated into biennial as well as annual work planning, and the Organization's risk and internal controls management framework is fully embedded in its regulatory framework. An electronic tool is in place to provide for the comprehensive and consistent recording of program and organizational risks. Over the course of the past year, reporting has also been significantly improved through the development of a Risk Management Dashboard offering real-time data on risks and risk responses. Automated emails alert risk and action owners if new records are created, or if due dates are approaching. Risks are clearly identified and articulated in the Program and Budget for every

Program, and regular reporting is done with respect to critical program risks and organizational risks to WIPO's Risk Management Group (RMG), which is chaired by me.

The purpose of the RMG is to promote a culture of responsible and effective financial and risk management in WIPO and approve its risk management strategy. It reviews and monitors WIPO's financial situation and the key risks to the achievement of the Organization's expected results. While the Organization strives to minimize the impact of risks encountered in the pursuit of its strategic objectives and expected results, there is a need to accept a certain amount of risk or threshold for any organization to operate. This threshold defines the risk appetite of the Organization, representing the benchmark against which WIPO will actively manage its risks. The RMG proposes a suitable Organizational risk appetite for Member States' review.

A revised approach to WIPO's investments in the form of a new Policy on Investments was approved by the Assemblies in 2015. The membership of the Advisory Committee on Investments (ACI) has been changed slightly since the introduction of the new policy and this committee is now chaired by me. The ACI will continue its role of monitoring investments made on behalf of the Organization in order to ensure that they are consistent with the policy. WIPO's cash position remained sound throughout 2015.

The Contracts Review Committee and the High Level Official on Procurement continue 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 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 Internal Oversight Division (IOD), 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;
- The Committee oversees audit performance by monitoring of timely, effective and appropriate responses from management with regard to audit recommendations and implementation of the same. As a result of such oversight the IAOC elucidates to Member States the implications of audit recommendations and observations, if any,

and also highlights, where it considers necessary, particular matters. Finally, the IAOC keeps Member States informed of its work on a regular basis and reports annually to the Program and Budget Committee (PBC) and to the General Assembly;

- The Joint Inspection Unit (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.

As Director General, I ensure that the “tone at the top” is a clear message that rigorous internal control is critical to the Organization and 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, 2015.



Francis Gurry  
Director General

[End of document]