

Program and Budget Committee

Nineteenth Session
Geneva, September 10 to 14, 2012

REPORT

Adopted by the Program and Budget Committee

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1. The nineteenth session of the WIPO Program and Budget Committee (PBC) was held at the headquarters of WIPO from September 10 to 14, 2012.
2. The Committee is composed of the following Member States: Algeria, Angola, Argentina, Bangladesh, Belarus, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, El Salvador, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kyrgyzstan, Mexico, Morocco, Oman, Pakistan, Peru, Poland, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Senegal, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland (*ex officio*), Tajikistan, Thailand, Turkey, Ukraine, United Kingdom, United States of America, and Zimbabwe (53). Members of the Committee represented at this session were: Algeria, Angola, Argentina, Bangladesh, Belarus, Brazil, Burkina Faso, Cameroon, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, El Salvador, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Mexico, Morocco, Oman, Pakistan, Peru, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Senegal, Singapore, South Africa, Spain, Sweden, Switzerland (*ex officio*), Turkey, United Kingdom, United States of America, and Zimbabwe (44). In addition, the following States, members of WIPO but not members of the Committee, were represented as observers: Austria, Australia, Barbados, Belgium, Costa Rica, Cyprus, Democratic Republic of the Congo, Dominican Republic, Ireland, Jordan, Kuwait, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Monaco, the Netherlands, Nigeria, Panama, Saudi Arabia, Slovenia, Trinidad and Tobago, Venezuela (Bolivarian Republic of), Zambia (25). The list of participants appears in the Annex to this document.

ITEM 1: OPENING OF THE SESSION

3. The Chair welcomed the Member States' delegations and requested them to limit the length of their opening statements in view of the session's heavy agenda. The Chair requested the Delegation of the United States of America to convey his, and the entire PBC's, gratitude to Ambassador Douglas Griffiths, the former PBC Chair, for the work he had done for the last two years chairing the PBC sessions. The Chair further announced that Mrs. Deborah LASHLEY-JOHNSON (United States of America) had been designated as a Vice-Chair of the Committee. The Chair invited the Director General to deliver his opening remarks.
4. The Director General made the following statement:

“Thank you very much, Mr. Chairman. Ambassador Badr, let me congratulate you on assuming this role, especially because, as all of the delegates are aware, Ambassador Badr has ceased to be the Permanent Representative in Geneva and has been appointed as Assistant Minister for International Organizations in the Ministry of Foreign Affairs in Cairo, which is a position of a great responsibility at a time which is extremely important for Egypt and the world. We are very grateful that you still accord us some priority in your extremely busy schedule. I speak, I am sure, on behalf of all of the delegates in expressing our deep gratitude to you.

“Let me, Distinguished Delegates, highlight some points on the agenda. This year is not a budget year but, nevertheless, it is quite a heavy agenda. I think that reflects the good work that has been done, in particular by my colleagues whom I would like to thank publicly. We have a number of items relating to audit and oversight. As you know, the Chair of the General Assembly has examined with you the issue of governance and the Independent Advisory Oversight Committee (IAOC) report and is submitting a proposal in this regard.

“The External Auditor will be with us on September 11, 2012 in the afternoon. Since I will not be here because I have an official visit for the remainder of this week, let me take

this opportunity to express our gratitude to the Swiss Department of Finance for the work that it has done as the External Auditor of WIPO. As you know, the Comptroller and Auditor General of India has taken over this year as External Auditor. Therefore, the Swiss External Auditor is reporting on the past, as it were.

“On program performance and financial review, let me say one word, if I may. The last biennium led to a tight result. It was a tight result on a budgetary basis and deficit when we had IPSAS adjustments taken into account. We can see that, in view of the turbulent and uncertain economic environment in which we operated throughout those two years, it was quite a good result. I think the challenge for us as an Organization is the learning experience of IPSAS. For those of you who have been following the publication of our periodical financial statements, this year you will see that we are accounting for IPSAS adjustments as we go, rather than at the end of the biennium. This, I think, helps us in coming to a better understanding of the different appreciation of our financial condition that the application of IPSAS gives us.

“There is also a proposal before you in respect of finances concerning a problem, which I am sure occupies the minds of all of the governments of the delegations as well as all of the international organizations, i.e., how to finance the long-term liability of after-service health insurance. We have made what we consider to be a reasonably innovative proposal in this regard. I know that it has been already the subject of some informal consultations and that a number of you have expressed some initial hesitation. Obviously, we are in your hands in this regard. I would simply emphasize that this is an exceptionally important matter for all international organizations. We find ourselves in a slightly better position than any other international organization because we have been able to start putting aside funding for this liability. However, we would really like to get on top of it and make sure that we fund this long-term liability in a correct manner.

“Let me make a final comment relating to construction projects and the fact that we have changed the way in which we are managing them. To recall the context, for our construction projects we have the New Building, the conference hall and security perimeter work. What I am about to say does not affect in any way our security perimeter work, which is proceeding in the usual manner, on time, on budget and without any impact. However, we had some difficulties with the general contractor with respect to the satisfactory termination of certain items relating to the New Building. Those items are somewhat apparent. They relate to a question of the roof, where you will see some work at the moment, and to the flooring in certain parts of the building. I would say that these are the sorts of things that occur rather normally in the context of a large construction project. However, we were unable to get the action that we thought was required and, indeed, legally due from our general contractor. That, in turn had some impact on the New Conference Hall project. The New Conference Hall project fell behind, leading to a considerable discomfort on our part at the fact that the building of the new conference hall was going to be about five months late. We have been reporting in the various documents for the Assemblies, the PBC and the IAOC on these difficulties of termination and the difficulties in relation to the new conference hall. What we have done over the preceding months when this problem became apparent is, generally, to follow a path of escalation. We have tried and sought to resolve it at the working level by informal consultations. When that did not lead to a satisfactory result we sought outside legal advice. The outside legal advice was very much on our side in its perception of the situation. We were very conscious that, as Management, we absolutely did not want to see the construction site paralyzed for several years by a legal dispute nor did we want to see escalating legal costs as a result of that. Therefore, in June 2012, we reverted to a further step, which was a direct meeting between the chief executive officers of the general contractor and WIPO, namely myself and the CEO of Implenia from Zurich. We orchestrated an afternoon of discussions and negotiations, including presentations of the situation by both sides. We came to what I consider to be a very good settlement, namely, an amicable settlement in which there will be no litigation and in which Implenia have withdrawn as the general

contractor from the completion of the remaining items in the new building and from the new conference hall. We reverted to a classical mandate, i.e., to the management of the construction of the new conference hall. A classical mandate is without a general contractor. It is not unusual in this market or any other markets. Why did we do that? First of all, for reasons of time: we already lost a period of five to six months and we did not want to lose further time by going through a process of engagement of a general contractor once again. Secondly, for reasons of cost: 70 per cent of the subcontractors, which we take over, are locked into 2010 prices and only 30 per cent have yet to be tendered. Thirdly, we assessed, taking into account professional advice, that it was going to be extremely difficult to get another general contractor at the stage when 30 per cent of the project had been completed and when so many tenders had already been concluded. If we did, we thought that it would be likely to be at a significantly higher future contract price. Lastly, let us remember that we have a number of what we consider to be highly professional and skilled advisors. First of all, the architect who is an architect of international renown and who was with us throughout the whole period of these negotiations, including the day in which the two CEOs met, and who advised us throughout that period according to his assessment of the state where we were and how we should go forward. He is an architect who has ongoing projects of a very significant nature in Europe and the United States of America. Secondly, our pilot is a local Swiss firm whose responsibility is to manage the contractors from our point of view. The pilot also advised us and was present throughout the whole of the negotiations in this manner. For all of those reasons we decided to go forward in this manner. I perhaps should say, as a final word, that I have great confidence in my colleagues, in the structure that we have put together which we are re-enforcing for the execution of this contract. I am quite sure that we would deliver it in a professional manner and on budget, which is extremely important, and probably by the end of next year.

“Mr. Chairman, I do apologize for taking so much time but I think it is an important issue and I wanted to have an opportunity to address it because I will not be here when it comes up. I thank you very much for your indulgence and once again I would like to express profound gratitude to you, in view of your responsibilities, for taking a time to record a priority of WIPO. Thank you”

ITEM 2: ADOPTION OF THE AGENDA

5. Discussions were based on document WO/PBC/19/1 Prov.3.

6. The Chair announced that item 5 (Governance at WIPO) would be taken up the first thing in the afternoon, as the Chair of the General Assembly (GA) was only be available at that time due to the resumption of meetings related to the Human Rights Council, which he was required to attend. The Chair added that some delegations wished to raise issues related to Human Resources and said that these would taken up under agenda item 6 (Presentation by the Director of the Internal Audit and Oversight Division). The Chair announced that, Mr. Didier Monnot representing the outgoing External Auditor would be available only during the afternoon of Tuesday, September 11, 2012. Therefore, agenda items 7 and 10, which included the External Auditor's reports would be taken up on Tuesday afternoon. In view of recent developments, agenda item 17 (Progress Report on the New Construction Project) and item 18 (Progress Report on the New Conference Hall) would be taken together as one agenda item. The Chair explained that the agenda had been structured to contribute to and facilitate ease of the review and the discussions under the following high level groupings: Audit and Oversight, Program Performance and Financial Review, Strategic Realignment Program Update and Progress Report on Major Projects. The Chair announced that the Secretariat would distribute an indicative timetable of discussions. In the absence of any comments the agenda was adopted as presented.

General Statements

7. The Chair opened the floor to general statements.

8. The Delegation of the United States of America, speaking on behalf of Group B, was pleased to see the Chair presiding over this session of the PBC. It looked forward to working with the Chair during this session and throughout the rest of his term. Group B thanked the Secretariat for the preparation and timeliness of all documents, for the consultations held over the past few months and for providing Q&A paper on certain issues. Nonetheless, it noted the documents provided could be more concise and presented in a way to allow delegates to better understand them. Group B remarked that, since it was the middle of a biennium, Member States did not have a budget to approve and they had time to look at a variety of institutional issues important to all delegations. Firstly, the debate on governance solutions had been identified and in some cases implemented by the IAOC. Group B continued to be impressed with the efforts of the IAOC in addressing with the Secretariat the outstanding recommendations of its predecessor (the Audit Committee). Group B would continue to actively engage with the IAOC on the remaining recommendations, as well as future recommendations, in an effort to exercise more effective governance of the Organization. Group B would speak more on this topic under the relevant agenda item, but suffice it to say, the interaction between the PBC and IAOC had improved dramatically over the course of the last few years and it saw no reason to launch into a study on governance. Secondly, Group B took note of all the work done to try and develop a more precise definition of development expenditure. Group B still had some concerns with the definition proposed by the Chair and would raise these when this agenda item was discussed but it believed that the exercise had remained true to what the Chair had said in one of the early informal meetings, i.e., that delegations should all be interested in properly addressing the issue and that the exercise should not be guided by the need to raise or lower the percentage of budget devoted to development. Finally, Group B stressed the importance for the Organization to be more transparent not only in matters of financial and programmatic reporting but more generally in the work it plans and carries out, including on cost efficiencies as well as on the new building and conference hall projects. In response to recent events, claims had been made by the Secretariat that Member States approved all projects the Organization undertook by virtue of approving the Program and Budget. Group B noted this was a very broad overgeneralization that did not necessarily reflect reality. While Group B wanted to avoid micromanagement of the Organization, it believed the Secretariat should engage more actively with Member States on certain issues. Group B assured the Chair that he could count on the constructive engagement and support of Group B in order to achieve a positive result this week.

9. The Delegation of Hungary, speaking on behalf of the Group of Central European and Baltic States (CEBS), welcomed the Chair and the Vice Chair at the nineteenth session of the PBC. CEBS thanked the WIPO Secretariat for organizing the useful briefing sessions and preparing all of the documents for the meeting, although it had to express some concern that a number of important documents had only been available late last Friday and, as the result, an appropriate preparation and coordination within the Group had been quite difficult. CEBS wished to mention that some of the reports on the agenda were highly complex and very challenging to understand. Therefore, CEBS requested that executive summaries be written in a form more accessible to an average delegate. CEBS assigned high importance to all items to be discussed and considered in the course of the week. It was important to settle as many open issues as possible in order to clear the table rapidly to prepare the PBC's future work, in particular next year's adoption of the 2014/15 Program and Budget. Regarding the oversight related items of the agenda, CEBS thanked the IAOC for its highly valuable and coherent annual report and the recent very useful information sessions. It was pleased to read and hear that significant amount of progress had been made regarding the follow-up on outstanding oversight recommendations and the functioning of the IAOC. The effective exercise of Member States' governance responsibilities was greatly facilitated by the high quality of the IAOC's work. Another important point on the agenda was governance. On this issue, first, CEBS wished to

thank the Chair of the GA for organizing a useful meeting and the IAOC for its report. As to the oversight architecture, CEBS welcomed the solutions identified in the IAOC report. As to the creation of a new governing body or a general study on governance, CEBS was not convinced of their necessity. CEBS was of the view that the current structure was adequate. It was incumbent upon the Member States to enhance efficiency of these structures by, e.g. better managing our meetings. On the topic of the definition of development expenditure, CEBS had followed discussions and, before progressing on the issue, it wished to hear more clarifications on important questions and concerns raised by Group B and GRULAC, who also wished to be reassured that development expenditure to the economies in transitions continued to be included in the definition. Finally, CEBS was confident that under the Chair's leadership, and with the flexibility of all parties, the Committee would be able to make much progress during this important session and assured the Chair of its constructive spirit and support.

10. The Delegation of Egypt, speaking on behalf of the African Group, congratulated the Chair on assuming the PBC chairmanship. The Group was glad to see the PBC chaired, for the first time in recent history, by an African country. The Group wished to approve the practice of representation of all WIPO regions in all WIPO bodies. The African Group thanked the Director-General for his key introductory remarks on the issue of construction projects. It also thanked the Secretariat for the hard work, professionalism and dedication in preparing working documents and in convening informal briefing sessions. The African Group stated that the PBC addressed several important issues that deserved WIPO Member States' attention and focused consideration. The African Group wished to highlight the importance of the PBC being a part of the credential mechanism established by the WIPO GA and consequently reporting to the GA and the CDIP on its contribution to the implementation of Development Agenda recommendations. The African Group wished to invite all negotiating partners to reach a solution to this issue in time to ensure mainstreaming development in all WIPO activities and programs. Furthermore, and as part of the opening remarks, the African Group wished to stress the following points: firstly, the issues of audit and oversight and WIPO governance were of utmost importance to the Member States of the African Group. It was crucial that WIPO, as a UN specialized agency, maintained an independent, efficient, credible and fully empowered system of audit and oversight. Such a system would ensure sustaining governance accountability and transparency as well as safeguarding effective and efficient management of the Organization to achieve its mission and objectives as agreed upon by Member States. The Group also took note of the joint proposal to revise the infrastructure, the Terms of Reference Governing External Audit and the Terms of Reference of the IAOC. The African Group would be submitting specific proposals to ensure that this revision process further strengthened independence of the oversight functions of the external audit as well as the IAOC. Regarding the issue of WIPO governance, the African Group had carefully reviewed the report by the IAOC and engaged actively in the GA consultations. The African Group insisted on the importance of reaching specific recommendations during this PBC session derived from Member States' previously submitted proposals and contained in the relevant documents regarding this issue. Secondly, the African Group appreciated the Secretariat's work in compiling the Program Performance Report for 2010-2011 and would like to take note of this document, which was a self-assessment report by the WIPO Program Managers, without consultation or participation from Member States. The comments on this WIPO self-assessment report would be presented during discussion of this agenda item. Thirdly, regarding the Program on IP and Global Challenges, the African Group recorded its request, submitted before PBC 18th session, for Member States to actively discuss in the appropriate WIPO governmental fora the various aspects of program activities especially those related to public health and environmental preservation. The Group would remain engaged in this Program which was of interest to the African countries. Fourthly, the African Group had actively engaged in the PBC consultations aiming to reach a more precise definition of development expenditure in WIPO. The Group welcomed the proposal presented by the Chair incorporating the views and amendments submitted by the Group. The African Group emphasized that it would spare no effort in working with the Chair in reaching out and deliberating with other regions in order to ensure the successful conclusion of the 19th session of the PBC under the Chair's leadership.

11. The Delegation of Brazil, speaking on behalf of the Development Agenda Group (DAG), congratulated the Chair on assuming the chairmanship of the PBC. This was one of the most important bodies of WIPO and the DAG trusted that under the Chair's able stewardship Member States would be able to make progress in various areas of work. The DAG reiterated its willingness to work constructively with other groups and delegations in order to achieve productive dialogue and successful outcome and thanked the former Chairman for his contribution. The DAG thanked the Secretariat for all their hard work and the preparation of the relevant documentation for the session, as well as for holding informative sessions aiming to explain the main points to be discussed during this week. It thanked the Director General for his introductory remarks, for the information put forward, which helped Member States have a clear idea of the state of play of the big construction projects. On a general note, the DAG regretted the fact that the PBC was not considered a relevant body by some Member States for the purpose of coordination mechanism of the Development Agenda. The DAG recognized that the PBC played a vital role in the Organization and was, in fact, responsible for many decisions that had impact on development, e.g. the allocation of resources. Having the PBC in the mechanism would be consistent with the goal of mainstreaming development through all work at WIPO. The DAG hoped that the subsequent PBC sessions would report to the WIPO GA on the implementation of the Development Agenda recommendations. Concerning audit and oversight, the DAG considered that a proper structure of auditing and oversight, which was independent and had no conflicts of interest with the objectives of its oversight, was a major feature of the Organization. The DAG would actively participate in the discussions regarding this issue over the course of the session, with contributions to constructive amendments of the WIPO IAOC Terms of Reference, the Oversight Charter and the External Audit. These amendments aimed to improve the effectiveness and transparency of WIPO audit and oversight system. The DAG would also comment on the report by the IAOC during the relevant agenda item. With regard to governance at WIPO, the DAG recalled its contribution, which was attached to document WO/PBC/17/2 Rev., based on the principle of working transparency, democratic and inclusive, with enhanced trust of Member States as well as the quality of services provided by the Secretariat. The DAG looked forward to reaching specific recommendations on WIPO governance during this PBC session. During the last session of the PBC, it had been agreed that the Secretariat would report on activities both undertaken and planned of the IP and Global Challenges Program to Member States during PBC sessions. Accordingly, the first report of this kind would be presented during this session. The DAG considered it a good practice to have Member States informed about activities of this Program. The DAG welcomed the presentation to be made by the Director of the Internal Audit and Oversight Division (IAOD). It was a good practice to periodically report to Member States on the activities carried out by this division. The Program Performance Report for 2010-2011 was a major tool for Member States to follow and evaluate the activities of the Organization during the past biennium. The DAG had taken careful note of the information presented and would present comments during the discussion of this agenda item. Given its nature as a self-assessment tool by Program Managers, with no Member States participation and contribution, the DAG requested that this report be noted instead of being approved by Member States. One of the most important issues to be debated during this session was the definition of development expenditure in the context of the Program and Budget. During the last session of the PBC, it had been agreed that the definition for the purpose of the 2012/13 biennium, had been an interim one and that it should be refined further. The DAG had been engaged in the consultations carried out under the facilitation of the Chair of the PBC. It welcomed the proposal made by the Chair and was willing to engage constructively with other interest groups and delegations, in order to achieve an appropriate definition. It was the DAG's view that the definition had to reflect properly and precisely the delegation of resources for related activities.

12. The Delegation of Peru, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), expressed its great satisfaction with the Chair assuming the chairmanship of one of the most important bodies of the Organization. GRULAC wished to reiterate, to the Chair and the Secretariat, its readiness to work in a constructive manner on different topics which were part of the current session. GRULAC wished to share certain points of view and

concerns with other Member States of WIPO. First, GRULAC thought it important that, within the Organization, one maintained an appropriate geographical representation of the different members, both in the decision making body as well as in the number of professionals who were a part of the Organization. GRULAC considered that there was no adequate proportionality in representation within WIPO as regarded the countries of the GRULAC region. This fact had even been recognized in one of the reports of the internal auditor of the Organization. Therefore, GRULAC expressed its concern on this particular issue, hoping that recommendations would be adopted in this Committee so as to change the current status quo, which did not benefit either the countries or the Organization. By way of illustration, the annual report on Human Resources (document WO/CC/66/1) stated that out of the 107 nationalities which occupied posts within WIPO, one country represented more than 32 per cent and five countries represented about 55 per cent. The geographical representation had to be more equitable. Secondly, according with what had been dealt with in the regional meeting of WIPO with the Directors-General of the Industrial Property offices for the countries of Latin America (May 29 to June 1, 2012), it was important to recognize that the total budget granted (and programmed for the coming years) to the countries of the region, as far as cooperation was concerned, meant that the regional office for Latin America and the Caribbean (whom GRULAC thanked for the hard work) each and every time had less staff to take care of the growing needs for cooperation of the countries in the region. Therefore, GRULAC would like the necessary funds be provided so as to increase the budget for cooperation in the region and the staff of the regional office. Finally, GRULAC considered it essential that necessary resources be granted to improve the quality of the working documents, which were often not available in Spanish in a timely manner. This had been occurring repeatedly in different meetings of the committees for which technical experts and delegates from the capitals did not have appropriate information in a Spanish language, and which often restricted their participation and specialized discussion. This was despite the fact that Spanish was the second most used language. Therefore, GRULAC requested that no cuts be made in this area of translation and interpretation, which it considered a sensitive area together with strengthening the linguistic policy of the Organization.

13. The Delegation of China thanked the Chair for chairing such an important body of the Organization. It also thanked the Secretariat for having prepared the documentation for the meeting. Many of the documents had been translated into other official languages of the United Nations, which demonstrated the importance that WIPO attached to the language policy. Since the implementation of the Strategic Realignment Program, the Delegation had seen that the work of WIPO had become more transparent and rigorous. The Delegation congratulated WIPO on the work done in this area. It hoped that WIPO would continue to work towards its nine strategic goals in order to provide better services to users. It also hoped that WIPO would continue to work in the area of genetic resources and other subjects of interest to the developing countries in particular. This would contribute to helping developing countries make progress in this area and would help develop the IP systems throughout the world. The Delegation stated that it would continue to participate constructively in the discussions within the PBC. It hoped that, thanks to its participation, the substantive work of WIPO would be taken forward. It would continue to make progress in order to make a greater contribution to the creation of an equitable intellectual property system.

14. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, thanked the Secretariat for providing the documents for the session. The Asian Group also thanked the IAOC for their report and for holding the information meetings, which was part of the formulated engagement of Member States with oversight mechanisms. The Asian Group extended its thanks to the IAOD for the validation report on the PPR and welcomed the presentation of the IAOD under item 6 of the agenda. The Asian Group was confident that under the Chair's able stewardship membership would be able to address properly all of the PBC issues in an interactive manner. It expressed its gratitude for the Chair's efforts to develop the definition of development expenditure in the context of WIPO Program and Budget. The Group was ready to be constructively engaged in the process in order to reach a satisfactory result on all matters reflected under the agenda items. Considering the nature of the documents

before the PBC and the need for following interactive dialogue, the members of the Asian Group would make their comments under each agenda item.

ITEM 3: REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)

15. Discussions were based on documents WO/PBC/19/10 and WO/PBC/19/10 Add.

16. The Chair of the WIPO Independent Advisory Oversight Committee (IAOC) made the following Statement:

“Mr. Chairman, Distinguished Delegates, I am pleased to introduce to you the IAOC’s annual report and the report of its 26th session held last week. The slides summarize the main points of both reports. I will start by recalling that the new membership met for the first time in March 2011. At that time we studied our mandate and the work of the previous membership and prepared a five-year roadmap, which was annexed to our May 2011 report. For 2011-2012, we prioritized the following issues: coherence of WIPO oversight functional relationships; risk management and internal controls, which is SRP Initiative No. 15; follow-up on oversight recommendations; internal audit and oversight; and, following a PBC decision in September 2011, a review of WIPO governance. In addition, we reviewed financial reporting, the New Construction Projects, Ethics and the Ombuds-function.

“With respect to outcomes, I am pleased to report that significant progress was made on two long-standing issues at WIPO, namely follow-up on oversight recommendations and the functioning of the Internal Audit and Oversight Division (IAOD). Concerning work priorities for the next period, we will continue to monitor closely implementation of SRP initiative 15 for risk management and internal controls and follow-up on oversight recommendations. We will also give special attention to the New Construction Projects, financial reporting and SRP initiative No. 17 for Ethics and Integrity. I will now briefly introduce the main points of each of the thematic topics.

“With respect to WIPO oversight architecture, as this will be discussed under item 4, I will not go into detail except to say that back in May 2011 the new membership saw a strong need to establish clearer functional oversight relationships and we launched a process to revise the Terms of References of the IAOC and External Auditor, and the Internal Oversight Charter. This resulted in a joint proposal of the Director of IAOD, the External Auditor and the IAOC, which is contained in document WO/PBC/19/20.

“Concerning risk management and internal controls, this was one of our highest priorities and will remain so for 2012-2013. While risk management and internal controls systems do exist at WIPO, certain practices are informal, *ad hoc* and unsystematic, and understanding and appreciation varies across the Organization. That said, improvements have been made and the IAOC’s interaction with the Secretariat has been very constructive. In March 2012, the Secretariat presented a status report and we noted that the significance of risk identification had been recognized and that risk registers had been developed for all organizational units. In May 2012, we met with the Director General and advised him and his team on a pragmatic approach to implementation of Enterprise Risk Management. We also discussed with the Assistant Director General and his team expected outcomes from this initiative, including the establishment of an Organization-wide risk register and identification and formalization of risk management at WIPO. In addition, we provided some best practices documentation and advised on aspects of change management with the context of SRP implementation. As mentioned, we will continue to prioritize this topic and are expecting a detailed presentation on progress at our next session in November.

“On WIPO governance, we undertook a detailed study following a PBC/18 decision. We read all existing documentation and met with the Chairs of the PBC and of the GA to explain the rationale for our recommendations.

“Regarding the New Construction Projects, we met with the Director of the Premises Infrastructure Division and received quarterly progress reports on the New Administrative Building and the New Conference Hall. We had prioritized for 2011-2012 a follow-up on management plans to bring total costs down to the approved budget level. We also made clear that the IAOC exercises its oversight function based on information provided by Secretariat or in the reports of the internal/external auditors and that we do not perform project audits. At our last session, the Committee was informed that the general contractor and WIPO had agreed jointly and amicably to terminate their contractual relationship. As the Director General has informed you, the services of a general contractor will no longer be used and the New Conference Hall Project will instead be managed by expanding and existing professional and technical mandates, an approach that has been used in Switzerland in both the international public and private sectors. All contracts will be reviewed to decide which should be taken over or renegotiated and some new tenders will need to be launched. The IAOC has the following observations: we think that an audit or an inspection on the project management side would provide reliable information on issues leading to the current situation and which will need to be taken care of to complete the project; we understand that this situation escalated within a very short time frame; and we think that it would be useful to have more insight into what happened, what might have been done, and what the Organization can learn. We understand the reasons for not continuing to work with a general contractor but we also think that this will add complexity and workload and that the financial implications should be made clear. We therefore thought that the Secretariat’s decision should be formulated in greater detail and that the implications of proceeding without a general contractor should be made clearer. This led to our recommendation that “the Director General should undertake a thorough examination of alternatives considered, duly supported by detailed analysis of the financial, legal, administrative and associated issues in the project management process and only then submit formal and well considered analysis to Member States. This should include provisions for a timely and detailed independent oversight mechanism.”

“Concerning the functioning of the IAOD, if we go back to the period 2006-2011, there were ongoing staff vacancies leading to non-implementation of the audit plan and non-coverage of all high risk areas. Consequently, the functioning of IAOD was considered to be of very high risk. The situation today is that a new Director of IAOD has been recruited, all IAOD budgeted posts are filled, implementation of the workplan is on track, the Evaluation Section is now fully operational and the investigation caseload is under control. IAOD-IAOC interaction is very proactive, clear and transparent. Consequently, we concluded that the very high risk ranking no longer applies and that IAOD now functions very well.

“Continuing with IAOD, we flagged to you the internal audit report on human resources management, which highlights important issues and which correlates with the analysis contained in the annual report of the Ombuds-person. We also think that clearer guidelines and awareness-raising are needed on informal and formal resolution mechanisms including to ensure the investigation section is not asked to deal with cases outside of its mandate. On the subject of oversight recommendations, I will start by distinguishing between IAOC recommendations and those in IAOD’s database. Beginning with the IAOC, back in March 2011, 307 IAOC recommendations by the former membership were outstanding. New recommendations were being added and without closure of the old recommendations the backlog was growing. The IAOC worked hard in 2011 to deal with this situation by ranking all IAOC recommendations according to risk. IAOD then undertook a study to ensure that we could provide you with a correct understanding of the status of the most important recommendations. In 2011, 11 of the

307 were ranked as being of very high risk. The Director General provided a formal response from which we concluded that only one very high risk was outstanding. 96 of the 307 recommendations were ranked as being of high risk. IAOD's study showed that of these, 52 had been implemented. By August 2012, all very high risk recommendations had been implemented and only 3 high risk and 4 medium risks were outstanding. We also put into place a new procedure for follow-up of IAOC recommendations whereby the Director General discusses residual risk and action plans direct with the IAOC. With respect to the oversight recommendations follow-up system in general, back in 2011, we observed that IAOD performed no formal checks on Program Managers' assertions and on residual risk. Since international standards identify this as a key responsibility for an internal audit function, we discussed the situation with the new IAOD Director who established new procedures. Today, recommendations are closed only after discussions between IAOD and Program Managers and on the basis of substantive testing and documentation. By the end of 2012, IAOD will also make available a web-based software that will improve efficiency and allow for follow-up on a continuous basis. With respect to recommendations in IAOD's database, in January 2012 it contained 135 recommendations, subsequently reduced to 85 which increased, in August 2012, to 111 mainly as a result of IAOD's human resources management audit report and its validation report on the PPR. The IAOC also followed up on ICT recommendations and is pleased to report that action is being taken, including with the establishment of a new ICT Board, which is chaired by the Director General.

"With respect to the recommendations contained in the audit report on human resources management, we will follow up on these with the new Director of the Human Resources Management Division at our next session in November.

"Regarding External Audit and financial reporting, in 2011 the External Auditor recommended that an IPSAS expert be recruited ensure sustainability of in-house knowledge. The IAOC was pleased to meet with the new expert who provided information on a number of key issues, including the reserves and budgetary controls. We discussed workplans with the new External Auditor and suggested inclusion of an audit on the New Construction Projects and regular audits until the Projects' completion. As mentioned, financial reporting will be an IAOC priority for 2012-2013 and we will review accounting controls at our next meeting with the External Auditor. Issues discussed with the outgoing External Auditor included the WIPO closed pension fund and the options for dealing with After-Service Health Insurance (ASHI), in particular the governance structure envisaged and the basis for the assumptions of financial returns.

"With respect to Ethics, we met three times with the Chief of Staff and Chief Ethics Officer. We discussed the WIPO Code of Ethics, now issued as part of an Office Instruction, and the current Declaration of Interest policy. The IAOC is pleased that work is underway on a whistleblower protection policy, staff training on Ethics and implementation of a full Financial Disclosure Policy. As mentioned, Ethics and Integrity will be a priority issue in 2012-2013, including a review of the organizational coherence between the Ombuds-function, the Ethics Office and IAOD. The IAOC believes that the internal control framework and establishment of a comprehensive Ethics and Integrity System are key governance components. With respect to the Ombuds-function, we met with the Ombuds-person twice and received the 2011 annual report. As stated, we noted that the findings in the audit report on human resources management correlated with those of the Ombuds-person's annual report. We believe that this validates the work of both and that precise and concrete follow-up action plans is needed Organization-wide. We will meet with the Ombuds-person at our next session in November."

17. The Delegation of Germany asked why the IAOC had singled out the audit report on human resources management for Member States' attention from all the documents that it had

reviewed. It added that seven Member States had come to WIPO to read this report and asked whether there were alternative ways to engage Member States.

18. The Delegation of Brazil, speaking on behalf of the DAG, thanked the IAOC Chair for the presentation and asked about the rationale for proposing revisions to the WIPO Internal Oversight Charter, the Terms of Reference (ToR) Governing the External Auditor and the IAOC's ToR, especially as the latter had been revised the previous year. With respect to risk management and internal controls, it noted the Secretariat's explicit recognition of the significance of risk identification and development of risk registers for a number of Organization units but, in view of the importance of risk management, sought additional information on the extent to which risk management would be implemented Organization-wide. On the New Construction Projects, it noted the IAOC's reference to Management's plans to bring the total cost of construction down to the approved budget level as requested by the Selection Board and requested more information on the magnitude of reduction. Concerning the IAOD, the DAG welcomed the recruitment of a Senior Internal Auditor in early 2012. With respect to Development Sector activities and implementation of high risk recommendations, Member States wished to receive more information. It supported the IAOC's decision to bring to the attention of Member States the audit report on human resources management. Other IAOC observations supported were the need to improve project design to ensure that results could be properly evaluated and that more buy-in from host governments was required to ensure project sustainability. On the investigation function, the DAG asked if the Investigation Policy could be made available to Member States and whether access by Member States to reports in the office of the Director of the IAOD also included the investigations status report transmitted to the IAOC. The DAG concurred with the IAOC's view that clearer guidelines and awareness-raising was needed on the various informal and formal resolution mechanisms at WIPO and took note that the IAOC looked forward to future constructive interaction with IAOD, which it believed important to avoid duplication and ensure the best collaboration. With respect to follow-up on oversight recommendations, the DAG thought it important that Member States received more detailed information on high risk recommendations, even if the document was so voluminous that it had to be presented as an Annex to a report. The DAG asked for more information on high risk recommendations closed without implementation, including the nature of the recommendations, the reason for closure and the information provided by the Director General. Regarding External Audit and financial reporting, it was pleased to note the recruitment of an IPSAS expert. On specific issues raised by the IAOC, including the approach adopted to deal with foreign currency exchange differences and accumulated surpluses, the DAG supported the IAOC's view that more clarification was needed and looked forward to receiving this at future PBC sessions. The DAG believed that the new Code of Ethics at WIPO only partially fulfilled WIPO's needs and recalled that the DAG and the African Group had submitted to the Committee on Development and Intellectual Property (CDIP) a recommendation, based on the Deere/Roca report, that staff and consultants should have separate Codes. The DAG concluded by thanking the Chair of the IAOC and the PBC Chair for the information provided, which was very useful in helping delegations deal with all the PBC documents and prepare for the various agenda items.

19. The Delegation of Pakistan thanked the IAOC Chair for the presentation and the IAOC for its report. It was particularly pleased with the IAOC's work and with the significant progress made on follow-up of oversight recommendations and the functioning of the IAOD. It supported the queries of the Delegations of Germany and Brazil and asked if the IAOC saw any IAOD-IAOC disjuncture with regard to oversight recommendations follow-up. While recognizing that much information had been provided on oversight recommendations, the Delegation believed that it would be useful for Member States to receive a document clearly setting out the recommendations together with their characterization as done by the IAOC, the subsequent actions proposed or taken, and the current status. Many of the 307 recommendations had been closed but the Delegation wished to know exactly and precisely where WIPO stood on this, including on any new recommendations issued.

20. The Delegation of France thanked the IAOC Chair and the Committee and said that the new membership had carried out remarkable work. With respect to the report, it asked how this could best be presented in future. The IAOC had dealt with all key topics and it was superb to have an overview at the start of the PBC. At the same time, it believed that it was not possible to discuss every paragraph of the report and that detailed questions might be better dealt with through written submissions to the IAOC. The Delegation also found it difficult to keep track of all points. It asked how the IAOC's position on the various PBC items could be summarized as and when the PBC dealt with them. One option was to present IAOC's points on a screen. Another was to include the IAOC's position in the cover page to PBC documents following on from the Secretariat's introduction. In this way, the PBC would render more justice to the IAOC's work and delegations could avoid overlapping discussions. The Delegation stated that the report was mainly a description of activities, meetings and contacts established and that this information was not as useful as the oral presentation made and the IAOC's work on the ground. This was also linked to the change in the IAOC's membership and the Delegation thought that the IAOC might reconsider its reporting philosophy. The Delegation said it was unclear as to the IAOC's position on Member States' access to IAOD reports. Currently, there was little access to documents that should be shared and the Delegation was not in favor of physical consulting reports in the office of the Director of IAOD. It noted that the only IAOD report publicly available was the 2011-2012 summary annual report. The quality of that report was excellent and the best of its kind in Geneva, proof of the excellent quality of IAOD documents. Finally, the Delegation asked the IAOC for its view on reconciling the need for more audit information on the New Construction Projects with the need to move forward quickly.

21. The Delegation of Egypt, speaking on behalf of the African Group, thanked the IAOC Chair for the presentation and the IAOC for their excellent work and for the quarterly briefings to Member States. The Group had taken note of the significant progress made in addressing follow-up on oversight recommendations and the functioning of the IAOD but was concerned that certain risk management and internal controls practices remained informal, *ad hoc* and unsystematic and that the extent to which the Secretariat planned to implement risk management Organization-wide was unclear. It noted that 85 recommendations were open, six of which were of very high risk and 45 of high risk, and wished to receive more information on the extent to which IAOC concerns had been addressed, especially on staff vacancies, IAOD work plans, adequate coverage of high risk areas and follow-up procedures as well as on project design improvements to ensure that project results could be properly evaluated. The Delegation asked if the IAOC had met with the UN Joint Inspection Unit (JIU) and been guided by its work, and if it followed up on implementation of JIU recommendations. It shared the views of the Delegations of Brazil and Pakistan and requested the IAOC to provide a list of oversight recommendations in a matrix form, to include IAOC's assessment of status of implementation.

22. The Delegation of Spain thanked the IAOC Chair for the presentation and stated that follow-up on oversight recommendations was a key concern. It supported the IAOC's work in this regard and wished it to continue along the same lines. The Delegation was particularly interested in follow-up on the recommendations of the internal audit report on human resources management. It asked if the Secretariat had a specific follow-up mechanism for the JIU recommendations and if the IAOC planned to review implementation of JIU recommendations. It supported the request of the Delegation of France for more detailed IAOC reports as it also valued the IAOC's work.

23. The Delegation of the United States of America appreciated the efforts of the IAOC and stated that the Committee's activities provided insights into the Organization that were critical for Member States to execute their governance and oversight responsibilities. The quarterly information sessions had been a useful forum for learning about the IAOC's assessments of WIPO oversight structures, internal control systems and risk management. The Delegation supported the concept for a five year roadmap, as contained in an Annex to document WO/IAOC/21/2 but thought that some details might be missing. The roadmap identified

recurring issues, such as the workplans of IAOD, the Ethics Office and the WIPO Ombudsman but gave little indication as to how the IAOC would handle non-recurring and emerging issues. The Delegation requested information on how new issues could be factored into the roadmap.

24. The Delegation of Algeria thanked the IAOC for its report and stated that the IAOC's role was crucial to improving Member States' oversight role. It wished to receive more detailed reports and specifically a list of IAOC recommendations at the same time. The Delegation asked for more information on the lack of appropriate key performance indicators in programs and project designs as well as the IAOC's specific recommendations in this regard and how the IAOC thought the situation could be improved. It noted that an IAOC member would be attending WIPO's Seminar "Learning from Existing Evaluation Practices on the Impacts and Effects of Intellectual Property on Development," and asked how the results of this participation would be reported. Concerning the IAOC's observations that clearer guidelines and awareness-raising were needed on the various formal and informal resolution mechanisms at WIPO, it requested specific information on what formal/informal mechanisms currently existed. On oversight recommendations, the Delegation wished to know the reasons for closure of the non-implemented recommendations, and echoed other Delegations' requests for more detailed IAOC reports, which would give a clearer picture of what was happening at the Organizational level. It asked that a list of documents reviewed by the IAOC be included in the annual report as the report included references to these documents.

25. The Chair reminded delegations that the question of access by Member States to internal audit and evaluation reports would be dealt with in the next agenda item, and that document WO/PBC/19/20 Add. recommended a revision to the Internal Oversight Charter to provide for Member States with secure online access to the reports. This extended access would exclude investigation reports for confidentiality reasons.

26. The IAOC Chair responded by stating that all comments had been well-noted and would be discussed with the Committee. With respect to requests for more information, a list of recommendations could be provided. IAOC reports could also contain more details. Concerning IAOD audit and evaluation reports, the IAOC supported facilitated access for Member States. On JIU recommendations, the IAOC had not carried out follow-up but had received from the Secretariat a report on the status of implementation of JIU recommendations which it would review at its next session in November. The Chair recalled that the new membership had focused first on the IAOC's own recommendations and subsequently worked with IAOD on the other recommendations. With regard to IAOC-IAOD interaction, much progress had been made, which the IAOC Chair attributed to a common understanding of the standards of the Institute of Internal Auditors (IIA). With respect to the New Construction Projects, the IAOC's response would be made under the respective Agenda Item.

27. The IAOC member also attending the PBC added that the internal audit report on human resources management had been flagged to Member States due to amount of significant issues raised. Member States needed to be aware of these issues and to be able to influence action taken. She supported the Chair's remarks that all comments made by Member States had been well-noted that the IAOC would do what it could to make its quarterly reports more detailed, including information on issues that had been cleared, those still pending and actions taken by the Secretariat. Concerning IAOC-IAOD interaction on follow-up of oversight recommendations, as the Chair had indicated, work had started to progress quickly and a shared understanding meant that no disconnect existed. On the IAOC's five-year roadmap and the handling of recurring and emerging issues, she stated that the IAOC could review emerging issues as and when they arose and that the roadmap was not fixed to the point to exclude other topics. Concerning key performance indicators, problems observed by the IAOC arose mainly from absence of baselines and objective-setting. Without baselines, it was difficult to evaluate movement and therefore improvement, an issue that needed to be taken up and dealt with by the Organization.

28. The Secretariat provided additional clarifications on implementation of the JIU recommendations and Enterprise Risk Management (ERM). On the JIU recommendations, the Secretariat actively followed up on implementation and prepared an annual status report. The last report, dated September 31, 2011, had been sent to the IAOC and it would form a basis for the IAOC's work. Concerning ERM, the Secretariat noted that this topic had been discussed extensively with the IAOC. It was understood that ERM, or as the Secretariat termed it "capital ERM", was a journey and a process. WIPO was currently at the level of "lower case erm". Discussions with the IAOC were based on an ERM implementation roadmap, which could be shared with Member States if they wished, which foresaw full ERM implementation by 2015/16.

29. The Delegation of Germany stated that Member States were continuously increasing the IAOC's workload. It recalled that the IAOC worked on a *pro bono* basis and met only four times a year. In its view, if the IAOC followed up on all comments and suggestions, its workload would easily double and even be enough to keep the IAOC permanently occupied.

30. The Delegation of Iran (the Islamic Republic of), noting that the IAOC's annual report had been prepared on the Committee's own initiative, sought clarification on the reporting lines between the IAOC, the PBC and the WIPO General Assembly (GA). It further noted that the PBC had been informed throughout the year by way of the IAOC's quarterly reports. It asked if the annual report should be transmitted to the GA and by what mechanism.

31. The Delegation of South Africa stated that follow-up on the JIU reports was very important and that it had been unaware that a Secretariat Division was responsible for this work. Given its importance, follow-up on the JIU recommendations should be a standing PBC agenda item. It would also be useful for Member States to receive the Secretariat's annual report in addition to the IAOC's follow-up. It fully supported the statements of the African Group and of the DAG, especially with respect observations on oversight recommendations and project design improvements, which it found pertinent. The Delegation also wished to receive a list of oversight recommendations in a matrix format.

32. The IAOC Chair summarized the situation regarding IAOC reporting lines to Member States. Following every quarterly session, the IAOC interacted with Member States during an Information Session, which was a recent development. The IAOC had decided to prepare an annual report to facilitate the PBC's review of IAOC's work because it provided a coherent and global view of all the information contained in the IAOC's quarterly session reports. While noting that reporting lines would be discussed in detail in the next Agenda Item, she stated that the proposed revisions dealt with incoherence in the current arrangements. For example, at present the Director of IAOD reported orally to the PBC and in writing to the GA, the External Auditor reported in writing to the PBC and GA, and the IAOC reported in writing to the PBC only. With respect to the JIU, the IAOC had not yet met with the Unit but it had received its reports from the Secretariat. Concerning oversight recommendations, the Chair confirmed that the recommendations could be provided in a matrix format, with information on risk level, action plans and timelines, and accountability.

33. The Secretariat confirmed that its work with the JIU was not restricted to annual reporting. It participated in every JIU study, including a review of draft reports for factual errors during the report finalization process. It also followed up on all WIPO relevant JIU recommendations, details of which were contained in the status report provided to the IAOC. The IAOC would then, in turn, report on this to Member States, which seemed a logical reporting arrangement.

34. The Program and Budget Committee took note of the Annual Report of the WIPO Independent Advisory Oversight Committee.

IAOC Members Rotation

35. Discussions were based on document WO/PBC/19/11.

36. The Chair thanked delegations and the IAOC, and introduced document WO/PBC/19/11, which requested the PBC to set up a Selection Panel in line with provisions contained in document WO/GA/39/13 and to take note that the Secretariat would subsequently launch a selection process as of 2013 in accordance with the provisions of the same document and the IAOC's ToR, and with a view to the Selection Panel submitting its recommendations at the PBC September 2013 session.

37. The Program and Budget Committee:

(i) decided to set up an IAOC Selection Panel comprising seven representatives of Member States, in line with paragraphs 18 and 19 of document WO/GA/39/13; and

(ii) took note that the Secretariat would subsequently launch an IAOC selection process, as of 2013, in accordance with the provisions contained in document WO/GA/39/13 and the IAOC terms of reference, with a view to the Selection Panel submitting its recommendations at the PBC September 2013 session.

ITEM 4: REVISION OF THE TERMS OF REFERENCE OF THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE, THE INTERNAL OVERSIGHT CHARTER AND THE TERMS OF REFERENCE GOVERNING EXTERNAL AUDIT GOVERNANCE AT WIPO

38. Discussions were based on documents WO/PBC/19/20 and WO/PBC/19/20 Add.

39. The Chair of the IAOC recalled that in March 2011 the new membership had reviewed the the WIPO Internal Oversight Charter (IOC), the ToRs Governing External Audit and the IAOC's ToR, to understand the functional relationships of WIPO's triangular oversight architecture. It saw that certain links were missing. For example, the IOC provided for validation of the IAOD workplans by the Director General and the PBC but no role was provided for the IAOC. Consequently, IOAC's oversight of IAOD's workplans depended on the working relationship established. Having reviewed the Charter in the light of the standards of the Institute of Internal Auditors (IIA), the IAOC also saw other provisions that were not in line with best practices, such as those for follow-up on oversight recommendations. Revisions to the ToR Governing the External Auditor and the IAOC's ToR had been proposed primarily with a view to improving functional relationships in terms of coherence, communication and reporting lines. The IAOC Chair concluded by assuring delegations that all changes were in line with common standards and that nothing revolutionary had been proposed.

40. The Delegation of France found the proposal excellent and had nothing to add to it. However, it sought clarification on the remarks made on addressing specific points. An issue that was brought up, and which had led to more discussion, had been whether the IAOC Chair was going to share the IAOC's analysis on various topics.

41. The Delegation of Egypt, speaking on behalf of the African Group, noted that the proposed revisions were made with a view to strengthening the independence of the oversight functions and was pleased that the intention was also to ensure greater coherence. The Group highlighted the importance of the IAOC being directly accountable to the GA in addition to the PBC and wanted to ensure that the proposed revisions conformed to those for UN system audit functions, as outlined in JIU report JIU/REP/1010/5. In particular, in paragraph 4 of the IOC, it noted deletion of the phrase "... , but he/she should be free to carry out any action within the purview of his/her mandate" and wished to know why. It also wished to see, in paragraph 5, strengthening of the language in the sentence "Conflicts of interest should be avoided", for example by amending "shall be avoided" to "... should be prohibited." In paragraph 18, the Group believed that internal audit and oversight reports could also be copied to the Chairs of the

PBC and the GA, in addition to the current provision for sending of the reports to the Director General with a copy to the IAOC. In paragraph 31, it believed that "... taking into account the advice of the Coordination Committee and the IAOC" should be amended to "... to be endorsed by the Coordination Committee and the IAOC". With respect to the IAOC's ToR, it reiterated its support for the proposal that the IAOC should report to the GA. Concerning sub-paragraphs 2(d) and (e), it believed that the proposed deletion limited the IAOC mandate and that the original text should be retained.

42. The Delegation of the United States of America supported the proposed revisions and sought clarification on two points. With respect to paragraph 19 of the IOC, it asked if more details could be provided regarding the handling of investigation reports. It recalled that the PBC Chair had indicated that these reports would not be accessible remotely but thought that clarification with respect to the confidentiality of these reports would be an improvement. On paragraph 4 of the IOC, it asked for the rationale behind the decision to delete the phrase "...but he/she should be free to carry out any action within the purview of his/her mandate." The Delegation thought that the Director of IAOD might initiate audits, evaluations and investigations on his or her own authority.

43. The Delegation of the United Kingdom welcomed the views of the IAOC and the proposed revisions, and stated that a strong internal audit function supported by independent oversight was vital in any open and transparent organization. The proposals strengthened the role and position of the IAOC and the Director of IAOD. In this regard, the Delegation believed that it would be useful for the IAOC to have a formal requirement to comment on the dismissal and appointment of Director of IAOD rather than just the opportunity to comment. It reiterated its view that the proposals were an excellent package which the Delegation fully supported.

44. The Delegation of Spain viewed the proposed revisions as a highly positive development. It wished to make additional suggestions guided by the two principles of ensuring, to the extent possible, access for Member States to information and the highest level of independence for the Director of IAOD and the IAOC. In this connection, the Delegation drew attention to paragraph 13(c) of the IAOC's ToR, concerning preparation, publication and dissemination by IAOD of internal audit, evaluation and investigation procedures manuals and stated that, in its view, the manuals should be submitted to the IAOC for review prior to finalization. On paragraph 22, the Delegation noted that access to investigation reports was possible for investigations at the highest levels but there was no provision for access by the External Auditor and IAOC to reports for investigations at other levels. In the view of the Delegation, oversight should not be restricted to the highest levels only. Concerning Paragraph 31 of the IOC on the replacement or dismissal of the Director of IAOD, it supported the view of the African Group that the role of Member States should be strengthened through the Coordination Committee. With respect to the IAOC's ToR, it asked whether paragraph 6 should be amended to include a provision that IAOC members would not be eligible for future employment at WIPO.

45. The Delegation of Germany requested clarification on paragraph 18 of the IOC concerning access by Member States to IAOD reports, in particular on how this would work in practice. For example, an electronic document sent on a secure line could subsequently be shared world-wide with a single click. What was the point of restrictions therefore? The Delegation noted that facilitated access was not in the original revisions proposal and wondered what led the Director of IAOD and the IAOC to change their position. It asked for a definition of a Member State. Did this refer to a representative in Geneva or to any institution of that Member State? Germany's mailing list had some 200 names and the Delegation sought criteria as to who could receive the reports. It wondered how a Member State would know that a new report had been issued, and believed that access should include the 31 reports previously issued by IAOD to ensure that the proposal was backward as well as forward looking.

46. The Delegation of Brazil, speaking on behalf of the DAG, supported the principle of strengthening the independence of the IAOC and the IAOD. Referring to the IAOC's comment

on paragraph 4 of the IOC, it proposed that “the IAOD Director is not part of operational management” could be included in paragraph 4 itself. It raised the same question previously posed by the Delegations of Egypt and the United States of America as to why the phrase “..., but he/she should be free to carry out any action within the purview of his/her mandate” had been deleted from the same paragraph. In paragraph 7, the Group proposed that the list of officers to which the Director of IAOD had access should include the Chair of the Coordination Committee. In paragraph 8, it noted the IAOC’s comment concerning minimization of duplication of activities and asked why this phrase had been deleted in the proposed revision. In paragraph 13, sub-item (d), the Delegation suggested that reporting requirements be formalized in writing by revising a phrase to read “...periodically report in writing to Member States, the IAOC and the Director General ...”. Likewise, it suggested that “in writing” be included in paragraph 25 as follows: “the Director, IAOD shall present on a regular basis a status report on annual workplans in writing to the Program and Budget Committee.” The Delegation had no comments on the proposed revisions to the ToR Governing External Audit. Concerning the IAOC’s ToR, it asked why text had been deleted in paragraph 1, which it believed should be retained as it provided for greater clarity on the IAOC’s origins. In paragraph 2, it noted the new language “..., which is a subsidiary body of the Program and Budget Committee ...” and sought clarification on whether it was necessary to include this phrase or whether it could be implied from the context. In Paragraph 13, it noted the proposed revision “Based on its review of the Internal and External Audit functions of WIPO and its interactions with the Secretariat, the IAOC will submit an annual report to the Program and Budget Committee and a summary annual report to WIPO General Assembly.” In this connection, the Delegation asked if this meant that the IAOC would be submitting a summary annual report directly to the GA without it first being reviewed by the PBC. It believed that the GA should receive a comprehensive report and not just a summary.

47. The Delegation of Venezuela (Bolivarian republic of) sought clarification from the Delegation of Spain regarding paragraph 22 (Internal Oversight Charter) and the proposal to include the Chair of the Coordination Committee on copy of any investigation report concerning the Director General.

48. The Chair thanked the IAOC Chair and delegations. As the suggestions made were straightforward, he proposed that a revised version of document WO/PBC/19/20 be circulated and that discussions continue on this basis.

49. Following circulation of the revised document WO/BC/19/20 Rev., the Chair of the IAOC confirmed that all suggestions had been incorporated except for two. The first revision not included was reinstatement of the phrase “..., but he/she should be free to carry out any action within the purview of his/her mandate” in paragraph 4 of the IAOC ToR. The reason for this was that although the IAOD Director was independent, this did not mean that he or she could initiate an audit at will. An audit should only be launched on the basis of risk analysis and the annual work plan, as validated by the Director General and Member States. The distinction between the original language and the phrase in paragraph 4 “He/she has the authority to initiate, carry out and report on any action, which he/she considers necessary to fulfill his/her mandate” was subtle but important. The second revision not included concerned access to investigation reports, the reason for which would be explained by the IAOD Director.

50. The IAOD Director said that, according to paragraph 18 of the current Internal Oversight Charter, Member States could only read IAOD audit and evaluation reports at WIPO. The proposed revision provided for transmittal of audit and evaluation reports to Member States. The IAOD Director believed that the text should be kept as proposed and that modalities of how this would work in practice be discussed separately. He said that the IAOD public webpage would be updated with a list of all reports issued and that these would be transmitted on request through a safe server. This was a first step. It was up to Member States to decide at a later stage whether they wanted general dissemination of the reports. Concerning investigation reports, he believed that these should not be made available to Member States for

confidentiality reasons, and to protect witnesses and the relationships between the witnesses and the subject of an investigation.

51. The Delegation of Brazil sought clarification on paragraph 19 of the IOC, particularly with respect to confidentiality of reports and asked if Member States could be given the same access as was given to the External Auditor and the IAOC.

52. The Delegation of the United States of America stated that it did not see any controversial changes in the revised document circulated but requested more time for it to be reviewed in its capital.

53. The Delegation of Egypt pointed out that its proposal had not been included and that paragraph 5 in the IOC still stated that “conflicts of interest should be avoided”. It believed that the language should be strengthened and asked why the proposal had been excluded.

54. The Delegation of Brazil stated that the two PBC document code references WO/PBC/16/3 Rev. and WO/PBC/19/20 cited in paragraph 1 of the IAOC ToR should be changed to GA document references WO/GA/34/40/2 and WO/GA/41/10 Rev.

55. The Delegation of Spain agreed with all changes in the revised document but wished two points to be taken into account. With respect to paragraph 18 of the Internal Oversight Charter, the Delegation believed that the reports could be made available on a password protected webpage. On paragraph 6 of the IAOC’s ToR, it said that the new language should be revised to cover all possibilities, including prohibition of employment of family members and prohibition of all types of employment, for example on a contractual basis.

56. The Delegation of Germany asked how Member States would be alerted when new reports became available and how they would know where to find them. It also asked if IAOD had considered the practice used by the International Labour Organization Administrative Tribunal (ILOAT) to render subjects anonymous.

57. The IAOC Chair said that the sentence “Conflicts of interest should be avoided” in paragraph 5 of the Internal Oversight Charter had not been revised because it was impossible to eliminate the possibility of a conflict of interest entirely. She gave the example of carrying out an audit on a function directed by a friend. What was important was that in such cases, the conflict of interest was declared and the supervisor took steps to reduce any potential adverse effects, for example, through greater oversight. The Chair nevertheless understood the Delegation’s concerns and proposed changing “should” to “shall”. On paragraph 5 of the IAOC’s ToR, the Chair believed that it would be difficult to draft a text that captured every single eventuality, such as use of knowledge of WIPO for the benefit of a third party but was ready to consider any text proposed. Concerning access by Member States to investigation reports, she said that IAOC reviewed only a summary of cases and proposed that the Director of IAOD reply in more detail.

58. The Director of IAOD stated that any decision including revision of the Charter to allow access by Member States to investigation reports was, as the IAOC Chair had just stated, in the PBC’s hands. He noted the difference between audit and the evaluation reports on the one hand and investigation reports on the other. The former dealt with process whereas the latter concerned individuals. The components of investigation reports were discussions and evidence. The task of rendering such reports anonymous would be a burden and if Member States wished IAOD to perform this work, it would be to the detriment of other activities. As the IAOC Chair had stated, IAOD submitted to the External Auditor and IAOC a summary of the reports which set out the facts that had been reviewed and the conclusions reached. The External Auditor and the IAOC appeared to be satisfied with the summary. Responding to the points raised by the Delegation of Brazil, he said that the investigation reports were handled differently to other IAOD reports and that Charter did not provide Member States with access.

The proposed revisions would not change this situation. He asked if access for Member States to the summary provided to the External Auditor and the IAOC would provide sufficient transparency. Concerning re-drafting of paragraph 18 to specify the modalities of access by Member States to audit and evaluation reports, he suggested deleting “upon request” and adding “on a safe site”. He added that the access would be a great improvement as far as transparency was concerned, in particular with respect to the audit and evaluation reports. This development would also improve management internally and it had the IAOC’s support. The IAOD Director noted that some organizations made audit reports available online while others did not. There was no fixed view. It was reasonable to move forward in stages before deciding on widespread distribution and that the compromise solution proposed was a good one.

59. The Chair of the IAOC reverted to the remarks of the Delegation of Spain on paragraph 6 of the IAOC’s ToR and said that the IAOC members signed an oath on appointment, which made it clear that their position could not be used as an entry point to employment at WIPO.

60. The Delegation of Spain replied that it did not seek to include detailed criteria in paragraph 6 but believed that as currently drafted, it did not ensure independence to the extent possible. The Delegation suggested revising the sentence to read “Members of the Committee and their direct family members shall not be directly or indirectly employed by WIPO”. This proposal was not too detailed and covered all cases.

61. The Chair of the IAOC believed that the new language was too restrictive as it precluded employment of family members in the very long term. She thought that it was appropriate that family members were not employed during IAOC members’ mandate to avoid the problem of influence but it might not be appropriate after the end of the mandate. She subsequently agreed with the Delegation of Spain’s additional suggestion to include the phrase “... during the mandate and for a period of five years following the end of the mandate”.

62. The Delegation of Brazil thanked the IAOC Chair and the Director of the IAOD for explanations on paragraph 19 and said that it would seek more clarification from the IAOD Director, including on the difference between the summary report on investigations and the full investigation reports.

63. The Delegation of Egypt appreciated the revision to paragraph 5, although it would have preferred inclusion of the word “prohibited”. On paragraph 19, and the question posed by the Delegation of Brazil, it appreciated the sensitivity of the investigation reports but thought that as they were already made available to the External Auditor and the IAOC, it seemed reasonable that they were also made available to the Chairs of the GA, the Coordination Committee and the PBC.

64. The Director, IAOD thanked the Delegations of Egypt and Brazil for their comments and said that he was prepared to clarify further, also directly, in particular on the contents of the summary of the investigation reports that IAOD shared with the External Auditor and the IAOC. With regard to making investigation reports more widely available, he reminded delegations that he was in the PBC’s hands. He stated that some organizations had investigation divisions with more staff and they consequently had the resources to make reports anonymous. He wished to recall to Member States the nature of the investigation reports, which did not establish whether or not alleged facts were proven. The IAOD did not make this decision and did not propose disciplinary measures. The summary of investigations shared with the IAOC indicated the status of all investigations opened. This was not limited to investigations formally opened because this did not provide a full overview of the Section’s work. Many allegations did not result in the opening of a formal investigation and a report of work undertaken to substantiate an allegation could not be considered as an official investigation report. This type of report was not made available to the Director General and could not be made available to Member States. He reiterated the importance of understanding the nature of IAOD’s investigation reports, which substantiated allegations. It was for the Director General to decide whether to go ahead with an

investigation, which was the first step of a lengthy process. Member States would ultimately be informed any decisions taken by way of the internal justice bodies. Confidentiality and protection of sources ensured the integrity of the internal justice system. In the IAOD Director's view, it was best to limit information to as few people as possible during the process. What was important was to have oversight mechanisms that could work to prevent fraud and infringements of WIPO's rules to the extent possible.

65. The Delegation of Switzerland asked how other organizations dealt with investigation reports and their disclosure to Member States. It agreed with the IAOD Director that investigation reports were of a very specific type and that granting full access to Member States was not a good idea. The Delegation wished to align WIPO practice with that of other organizations.

66. The Delegation of Germany asked if making IAOD reports publicly available could influence the level of reporting and number of studies undertaken.

67. The PBC Chair summarized the main points on investigation procedure as follows: Investigation reports had a timeline beginning with an allegation that was not disclosed even to the Director General. A formal investigation was launched only if an allegation was substantiated. At a certain point in time, the results of the investigation were made available. Member States sought information on practice in other organizations and whether the Director of IAOD believed there was a point in time when information could be disclosed to Member States.

68. The Director, IAOD thanked the PBC Chair for his clear summary. He stated that following receipt of an allegation of fraud or misconduct, an assessment period followed during which the IAOD determined whether there was enough substance to open a formal investigation. He referred to his Summary Annual Report to the GA, which contained information showing that most of IAOD's investigation work involved examining allegations prior to the opening of a formal investigation, and that most allegations had not led to a formal investigation. When a formal investigation was opened, an official notification was issued. At the end of the formal process, the Director, IAOD signed the investigation report and transmitted it to the Director General. Any subsequent measures were decided upon by the Director General. The investigative reports referred to in paragraph 19 of the IOC were the reports produced following the formal opening of an investigation and not the initial reports. The formal reports represented only a small aspect of the Investigation Section's work and did not provide good insight into all its activities. With respect to other organizations, UN practice was different. Until very recently, audit reports had been disclosed internally and it was only recently that they had been made more widely available. Most organizations did not allow access to investigative reports. The UN Secretariat did now give access but they also had sufficient resources to render the reports anonymous. If WIPO Member States wished to have access to investigation reports, the reports would need to be made completely anonymous by removing, for example, all names, functions, nationalities etc. Otherwise no-one, in the future, would come forward with an allegation, something that people already found hard to do.

69. The Delegation of Germany recalled that at the 2011 General Assembly the Director of IAOD had reported an expenditure of some 40,000 Swiss francs on investigations. It thought that a breakdown of costs, for example in terms of number of allegations reviewed, formal cases opened etc., might provide sufficient information for Member States. It added that this information was already available in the IAOD Director's Summary Annual Report to the GA. The Delegation thought that more detail was unnecessary.

70. The Director, IAOD drew the delegations' attention to Section 4 of his Annual Summary Report to the GA (document WO/GA/41/9), which provided information on investigations activity during the reporting period, including the number of complaints received, the number of investigations completed and the number under way in June 2012. The complaints totaled 18,

investigations 16 and, on June 30, 2012, 15 complaints were active. Of the cases examined, six were unfounded and one involved an official who had now left the Organization. In three cases, an investigation was considered unnecessary following a preliminary review. Consequently, nine out of 16 cases had not led to formal investigation. The Annex to document WO/GA/41/9 contained statistics on investigations evolution and type. In 2011, 15% cases concerned defamation and 15% recruitment, and in 2012, 25% confidential information leakage, 25% harassment, etc. If Member States sought this type of information, the Annual Summary Report might be sufficient. If Member States wished to have more details on procedures and the investigations themselves, however, the Charter would need to be revised.

71. The Delegation of Egypt sought clarification on a reading of paragraph 19 in conjunction with paragraph 22. According to paragraph 22, the Director of IAOD transmitted final investigation reports to the Director General. For investigations concerning an Assistant and/or Deputy Director General, the IAOD Director would also send a copy of the report to the GA and IAOC Chairs. For an investigation concerning the Director General, the IAOD Director would send the report to the GA Chair with copies to the Chairs of the Coordination Committee and of the IAOC, and to the External Auditor. For high level investigations, therefore, reports were available to Member States. At lower levels, the reports were not available even to the Chairs of the GA, the Coordination Committee and the PBC.

72. The Director, IAOD stated that investigation reports concerning Assistant and Deputy Directors General were sent to the Director General as the official responsible for taking disciplinary measures, and as long as there was no conflict of interest. Paragraph 22 provided safeguards against any perception of a possible conflict of interest and allowed for the possibility of a situation where action could not be decided upon by the Director General.

73. The Chair of the PBC stated that much clarification had been provided and that Member States were now in a position to adopt the revisions following confirmation from the capitals of those Delegations that had requested additional time for this purpose.

74. The Program and Budget Committee:

(i) recommended the approval of the proposed revisions to the WIPO Internal Oversight Charter, the Terms of Reference Governing External Audit and the Terms of Reference of the WIPO Independent Advisory Oversight Committee contained in the document WO/PBC/19/20 Rev. to the WIPO General Assembly; and

(ii) took note that the relevant sections of the Financial Regulations and Rules would be amended accordingly.

ITEM 5: GOVERNANCE AT WIPO

75. Discussions were based on document WO/PBC/19/26.

76. The Chair recalled that at its 18th session the PBC requested the IAOC to review the issue of WIPO governance in light of relevant documents and proposals submitted by Member States, including, but not limited to, documents WO/PBC/18/20 and WO/GA/38/2, with a view to presenting a report with its recommendations to Member States as quickly as possible. The PBC had also decided that the Chair of the PBC would contact the Chair of the IAOC to determine an appropriate timeline. The PBC had also requested the Chair of the General Assembly (GA) to convene informal consultations with Regional Coordinators and three delegates from each Region on the produced IAOC report on WIPO governance, with a view to presenting specific recommendations to the 19th session of the PBC; and decided that the issue of WIPO governance would be an agenda item for the 19th session of the PBC. Informal

consultations to discuss the report issued by the IAOC had taken place on August 29, 2012, and the report by the Chair of the Assemblies was before the delegations. The Chair invited Ambassador Uglješa Zvekić, the Chair of the GA, to further report on this agenda item.

77. The Chair of the GA reported that following the request of the 18th session of the PBC, he had convened, on August 29, 2012, a meeting with Regional Coordinators on the issue of governance at WIPO as per the report issued by the IAOC on this matter. All of the members of the IAOC had been present in the meeting. After the Chair of the IAOC had presented the main points of the above mentioned report, an active exchange of views had taken place. The IAOC report had been welcomed. Different opinions had been expressed regarding the two recommendations in the IAOC report and, in particular, on the need to undertake a detailed study of governance in WIPO. However, the consensual opinion had been that performance efficiency and coordination of the existing governing structures were to be enhanced, which, in turn, primarily rested on the commitments of the Member States themselves and the management of various governing bodies and subsidiary organs. The GA Chair noted that the PBC might wish to invite the Member States to explore the ways and means to promote performance, efficiency and coordination of the WIPO governing structures in view of the already available analysis and documents, including the above mentioned IAOC report and related Member States' opinions.

78. Following the statement by the GA Chair, the PBC Chair recalled that the decision paragraph in the document invited the PBC to take note of the contents of the document and decide on any further action on this matter. The options before the delegations were: (i) the PBC would examine the report and take note of it; (ii) to go further and commission the IAOC to make the full study of the issue; (iii) if Members did not wish to go through the full study because the cost of it was unknown, and it might be costly, the PBC could request a pre-study of the study. The PBC could express its wish to go further to see how governance could be improved, given that the report of the GA Chair said that some of the internal bodies needed to be strengthened. Many delegations felt that the current structure, as it was, could be strengthened without changing the structure itself. Another option would be that, while doing that, there could also be a pre-study of the study. In summary, one option was to take action, or just to take note of the report. The second was to say that delegations needed a full study on how best the governance structure in WIPO could be improved. Members could request that study, although it might be costly. Therefore, the PBC could request that a pre-study of the study be made to estimate the cost. In doing such a study, the fact that WIPO itself had already done a study would be taken into consideration. The Chair recalled that the Secretariat had already prepared a study of governance in other UN organizations last year, which should not be duplicated. The Chair opened the floor for discussion.

79. The Delegation of the United States of America, speaking on behalf of Group B, took note of the IAOC's June 2012 report on governance. Group B believed that the current structure was functioning better at present than at the time of the Audit Committee, the IAOC predecessor. Part of the improvement was attributed to Member States' exercising greater governance through effective communications, but more improvement was needed. Group B stood ready to discuss with other groups and members how an even higher standard of governance could be achieved through improved management of meetings and coordination among the governing bodies. Since Member States were willing to improve governance in a more organic manner, Group B did not see the need to launch a costly study on how other UN organizations addressed governance, especially since the Secretariat had already provided such information. Group B believed that Member States were capable of discussing governance on their own.

80. The Delegation of Egypt, speaking on behalf of the African Group, thanked the IAOC for its report and thanked the Chair of the GA for his presentation. Regarding the remarks in the IAOC report, the Group felt that the report had seemingly another approach to the issue of WIPO governance through only focusing on the single recommendation to establish an additional governing body. The report did not address, analyze or review other proposals

presented by Member States, including those made by the African Group, Australia, China, DAG, Germany, Japan, the United States and others. Second, measures referred to in paragraphs 16 and 17 of the IAOC report, still needed to be reviewed by Member States. The African Group said that it had been done this morning and would come to this subject again later in the week. Third, the IAOC expressed the opinion (in paragraph 18) that the oversight aspect of WIPO's governance would not require the creation of additional governance structure. Yet, in paragraphs 20, 21, and 22, the IAOC stated that additional resources and expertise would be required for the IAOC to undertake analysis of the additional governance structure in WIPO. In the Group's view, this issue needed to be substantiated and clarified, considering the fact that the Secretariat had prepared an analysis of governance structures in other organizations (document WIPO/18/20). Regarding the future work on WIPO governance, the Group submitted the following recommendations. First, Member States should continue to review WIPO governance in light of all relevant documents and proposals submitted by Member States. The Group recalled that the African Group had submitted proposals on issues related to the staffing methods. The Group thought that this, and other proposals, still needed to be discussed by Member States and therefore proposed that one working day be allocated for discussing proposals made by Member States at the next PBC session. The second recommendation was that the role of the PBC and the Coordination Committee (CoCo) be strengthened to fulfill effectively and efficiently their executive duties and mandates and ensure Member States' control and oversight. The Group believed that the CoCo should be meeting more regularly and exercising its functions and duties as captured in the WIPO Convention. Third, the Group recommended examining the IAOC recommendation regarding the comprehensive study and analysis. The African Group had said that it could agree to this recommendation and added that it also agreed to the Chair's proposal to have a pre-study on this study. In this regard there could be three options: it could be done either by the IAOC, an independent expert, or the External Auditor. With these recommendations the Group wished to propose a way forward for WIPO governance and requested that governance be maintained as an agenda item for the next PBC session.

81. The Delegation of Venezuela (Bolivarian Republic of) considered that the points highlighted by both previous speakers were right because the issue of governance had arisen at a time of great tension within WIPO. At this stage, the Delegation believed that the Delegation of Egypt was correct in saying that it would be appropriate to maintain the requirement for the pre-study to avoid previous problems arising again. The Delegation was nonetheless in favor of a multilateral approach. It did not consider the arrangement similar to the WTO green room a good option for WIPO. It cited the example of the 11 years of the Doha round negotiations, which were stuck in a quagmire because work had been done behind closed doors (in green rooms) as opposed to open discussions with the complete membership. Therefore, with that in mind, the Delegation was in favor of a more multilateral approach, open discussions amongst all members.

82. The Delegation of Brazil, speaking on behalf of the DAG, thanked the IAOC for its report and the Chair of the GA for convening consultations. The DAG recalled that it had also made suggestions and proposals to improve governance at WIPO. These appeared in the document discussed during the last PBC session (annex to document WO/PBC/18/20). The DAG remarked that some of the previous interventions confirmed the necessity to continue discussing this issue. The DAG supported the African Group's suggestion to allocate one working day to discussions of proposals or to keep this item on the PBC agenda, providing a reasonable amount of time for further discussion. Referring to strengthening of the roles of the PBC and the CoCo, the DAG felt that either the two bodies lacked executive functions, or perhaps they did not perform their functions the way it was necessary for them to perform them. Member States needed to discuss how to best address this issue. Regarding the Chair's suggestion of a pre-study, the DAG considered that it could be a good idea to have a summary of the course of action and the available options before engaging in a full scale and complex discussion. The DAG's position was that discussion needed to take place, with the necessary time allocated for it in the PBC sessions. Therefore, the DAG supported having this as an

agenda item and was ready to discuss with other delegations and Groups better ways to address the issue of governance with a view to making the working of the Organization more efficient to the benefit of Member States, improving Member States' trust in the Organization and the direction given by it, and ensuring that the Organization was truly member-driven.

83. The Delegation of Spain aligned itself with the statement made by Group B. However, it drew attention to one of the objectives of the Organization and of the PBC, which it considered particularly important, i.e., effective management of meetings. It pointed to a growing number of intersessional and formal meetings increasingly lasting over a week. Discussions in some of these meetings sometimes went on until 2 a.m., as was the case in the CDIP. The Delegation emphasized that this had consequences, not only in terms of the wellbeing and health of the attending delegates but also in terms of the budget. These were significant: increased number of meetings resulted in the bigger volume documentation and higher related translations and interpretation costs. It also implied increased travel costs for experts from the capitals and gave rise to a degree of delegate fatigue. The Delegation believed that the increase in the number of meetings did not increase effectiveness. It recalled that, often, during a week-long meeting, it was only at the very end of that meeting that anything was achieved. By making meetings last this long, Member States were postponing the possibility of reaching agreements and achieving objectives quickly. Therefore, the Delegation believed that Member States, as well as the Secretariat, had to reflect on how, together, they could better manage meetings without jeopardizing the objectives set out for the Organization by its Member States. Improved meetings' management would help delegates fulfill their missions and would make possible significant savings in conference costs. The Delegation considered that these points were closely related to the budgetary discussions as well as to the discussions on the use of languages, which certain delegations believed to be the source of the excessive costs. The Delegation felt that Member States should take the time to examine how to better organize meetings and were they to do that, they could bring about major savings and improve management within the Organization.

84. The Delegation of South Africa associated itself with the statements of the African Group and the DAG. It said that it wished to convene a General Assembly to discuss the report on WIPO governance. The Delegation was conscious that the IAOC report and the discussion of document WO/PBC/19/26 was limited in scope as it focused on the creation of a new governing body. The Delegation noted a strong and growing interaction, among other improvements, between the PBC and the oversight entities (the External Auditor and the IAOC). The oversight aspect of governance would not require the creation of an additional layer of governance. The Delegation wished to reiterate the remarks made by the African Group that this recommendation was insubstantially documented in the report. The issue of WIPO governance went beyond a new governing body. The Delegation recalled that, at the 16th session of the PBC, it had been decided that Member States should submit written views on WIPO governance. As a result, a number of Member States had submitted their contributions (contained in the annex of document WO/PBC/17/2 Rev.). These submissions contained a range of suggestions: from the proposals on the finalization of the mechanism for the selection of WIPO bodies' chairs to the approval of the calendar of WIPO meetings. The Delegation wished to further discuss these issues and added that the PBC was yet to discuss Member States' contributions. For example, Australia had suggested the creation of a small PBC working group, on an *ad hoc* basis, to consider the reports of the oversight bodies and make recommendations to the PBC. This was a very valuable proposal that merited further discussion. One delegation had suggested that substantial comments made by Member States on the IAOC report should be made in writing, due to the length of the comments and the paucity of time. The Delegation agreed that it was important for the documents before Member States to be thoroughly scrutinized with a view to making informed decisions. Currently, the PBC was not providing Member States with sufficient time to do so and ways should be explored to improve on this. A number of Member States had already suggested some improvements on the way forward on this issue. The Delegation wished to dispel any misconception that discussions on WIPO governance were aimed at micromanaging or undermining the management of the Organization. The debate on WIPO

governance should be embraced as a necessary process and integral part of strengthening the Organization towards discharging its mandate efficiently and effectively. The Delegation believed that improving decision making in WIPO should be a member-driven process arrived at by consensus. Therefore, at least a day should be devoted to discussing recommendations made by Member States and the issue of governance should continue to be on the agenda of the PBC sessions.

85. The Delegation of Germany reflected that the issue of governance went beyond the structure and efficiency of meetings because of the process leading to those meetings, which was documentation. The Delegation explained that, for example, in the document on the definition of development expenditure, some information was provided on how the new definition would affect certain programs. However, a delegate was required to consult another document to find out what the old figure had been and where the change was. This was unnecessary work required of the delegates. The same issues arose in the ASHI document. The Secretariat had left it to the delegates to find the details of the proposals. These were two issues where the work of the delegates could be made easier. There were many similar issues and these had been discussed in connection with the agenda item on the IAOD report. The Delegation believed that Member States were capable of improving their work. They asked questions, wanted different types of reports and different ways of communication. Member States did not need a study. They were still at the stage where they could improve themselves, but in order to achieve that, issues had to be addressed in depth. The contributions by Member States submitted in response to last year's request concentrated only on the structure and the kind of meetings, but there were deeper issues. The Delegation suggested opening discussion on the matters that affected the daily work of a delegate: how to communicate information in the documents, when the documents were made available and how much extra work was needed to understand the contents of documents. The Delegation recalled that, in the CDIP, there had been 31 documents, some over 200 pages long.

86. The Delegation of the United States of America supported the views of the IAOC expressed in its June 12, 2012 report on governance at WIPO. Namely, there needed to be a clear articulation and establishment of functional relationships among the IAOC and other oversight bodies. The Delegation welcomed the IAOC's coordinated review of the Internal Audit Charter and the ToRs of the External Auditor and the IAOC, with the objective of improving coordination among the oversight entities. Further, the ongoing interaction between WIPO top management and oversight entities was an important element of good governance. The common denominator seemed to be that improvements could be made in the existing oversight architecture. Member States were exercising greater governance through effective and efficient communication and the Delegation believed that we they could continue to work towards that important objective. However, the Delegation did not support the idea of the IAOC undertaking a study on governance structures throughout the UN system. The analysis would be resource intensive and complex (looking at the UN system structures and higher level management, legal aspects of international treaties governing the UN and knowledge of diplomatic practices and procedures involved) without yielding a clear way forward since the governance structures were so varied. Further, as noted earlier, Member States had already been provided a summary document to this effect. It appeared that such a detailed study would be unnecessary given the need to focus on the existing governance and oversight structure within WIPO in areas that Member States could focus on for improvement.

87. The Delegation of the United Kingdom thanked the Secretariat for producing the statement of internal control which had been asked for by the Delegation at the last GA. This was for bringing WIPO in line with other UN organizations and improving governance. The Delegation believed that WIPO should be commended for striving to continually improve governance and accountability. The Secretariat had improved the clarity and transparency of governance to the Member States. However, with this in mind, the Delegation suggested that the Chair should consider the following for further discussion. First, a cover sheet that the Delegation had designed for projects undertaken by the Secretariat; its purpose being to outline the most

important information on the project to the reader without them having to search for detail. The reader of course could do this if more detail was required. This would not require any extra calculation by the Secretariat. It was a method to bring the most important information to the forefront of the document in question. The Delegation envisaged it including: the title of the project, key milestones achieved, the length of the project, the amount of money *versus* the budget remaining, the amount of money spent *versus* the budget remaining and information if the project had been completed or not. The Delegation believed that this would be a benefit to all Member States and would give a very quick outline of the progress of a project to those who did not have sufficient time or enough background knowledge to look at every project in detail. A copy of the draft cover sheet would be sent to the Secretariat and the Delegation offered to circulate it to any Member State wishing to have a copy. Secondly, the Delegation wished to address the issue of opening statements. It was very pleased to see that opening statements from individual Member States had not been made at the beginning of this session. It was definitely a step in the right direction, which would save a lot of time. The Delegation wished to see this practice extended to the Assemblies. The time had come to readdress this issue because there was a huge amount of time and money to be saved. The Delegation recognized that the national statements were an important part of the Assemblies for several Member States, so it did not suggest the abolition of them as such, but perhaps delivery in a different way. The provision for written statements had been made this year, which the Delegation fully supported, but it felt that, as an Organization that looked to promote innovation, more interesting and effective options should be explored. The Delegation suggested that, in the lobby of the CIG, a series of screens be set up to run audio visual recordings of national statements on a continuous loop throughout the week. It envisaged these to be sent to the Secretariat ahead of time and proposed that facilities be made available to record statements for those who were not able to submit them ahead of time. WIPO national offices could also make the statements available online, should delegations so wish. To illustrate the problem, the Delegation pointed out that, last year, two days of the Assemblies (including a late night session) had been taken up by opening statements. If this time could be limited to just a few hours of regional statements, the time and money saved would be significant in one year, and the savings could run into very substantial figures. The Delegation hoped that all Member States could agree that this was a sensible innovative solution to the problem that had burdened the Assemblies for far too long.

88. The Delegation of Hungary thanked the Chair of the GA for organizing consultations on the issue of governance and thanked the IAOC for its report. Referring to the WIPO oversight architecture, it welcomed the solutions identified in the IAOC report. As to the creation of a new governing body, or general study on governance, the Delegation was not convinced of their necessity. It thought that studies were onerous, a lot of the questions had to be addressed and at the end to be decided on, and were too political in nature. It believed that the issue should be better discussed in the PBC and added that Member States did not need another study for that. The Delegation did not have a view on the pre-study at this stage, but, at first glance, it thought that the CEBS Group had to reflect on that. It was of the view that the current architecture was adequate and that it was incumbent upon the Member States to enhance the efficiency of the existing structures. On this point, it noted the African Group's suggestions on the issue of the CoCo and the PBC and strengthening of their roles in their interaction. It was willing to listen more to that during the week or even informally, but it thought that Member States needed to narrow the fields on the issue of governance if they wanted better results. It would be helpful if members who put specific suggestions on the table would narrow or prioritize their positions and demands. Then Member States could have a useful discussion and arrive at a solution. Regarding having one day dedicated to this issue at the next PBC, for now, the Delegation was not convinced Member States had to further reflect on that. They should instead spend time during this session addressing this issue as everything was practically on the table already. It believed that this question should be addressed at present. The Delegation supported the statement of Spain on the issue of meetings. It added that the Delegations of Germany and the United Kingdom also had good suggestions.

89. The Delegation of Algeria thanked the Delegation of Switzerland for drafting the report and the Chair of the GA for having addressed the issue of WIPO governance. It added that the issue of governance required a great deal of attention on behalf of all Member States. The Delegation stressed that it had always stated its wish to see WIPO's governance bear in mind principles of equality, transparency and equal representation in all sectors. All these subjects needed to be addressed bearing in mind the position of all states represented in the Committee meetings. The Delegation wished that the PBC achieve consensus-based recommendations allowing WIPO to move forward on this issue. On the report, the Delegation took due note of the recommendations made with respect to the improvement of the supervisory architecture at WIPO as well as the makeup of governing bodies. There was a proposal that would study the need to have additional governance structures, bearing in mind current structures. The Delegation believed that this proposal did not fly in the face of other proposals made by the African Group and the DAG. Further to the option of an extra body, Member States could strengthen the role of the CoCo, the PBC as well as look at other proposals. There were several proposals before Member States, which was why the Delegation was very strongly in favor of having one day dedicated entirely to this matter in the next meeting of the PBC. Such time could be used very fruitfully and would allow delegations to address all the different proposals and options on the table, not only those made by any specific group of countries. Having done that, Member States could come up with a specific concrete proposal that could be presented at the next GA.

90. The Delegation of Switzerland thanked the Chair of the GA for his presentation as well as the IAOC for its evaluation of the recommendations and the proposals of Member States. The Delegation shared the opinions stated in that report to the extent that it did not see any need to review in depth the institutional structure of WIPO, and considered that the oversight and audit bodies of the Organization did not need any major overhauling. Many things could be improved and they had been improved on. In general, the Delegation believed that Member States were following the right path. Following the lines of the statement made by Group B, the Delegation believed that even though certain topics needed to be broached on the issue of governance, as highlighted by the Delegation of Hungary, this debate needed to be conducted in a very targeted manner if Member States were to achieve results. As was mentioned by Group B, the Delegation believed that additional work would be necessary as regards management and organization of meetings, particularly with respect to coordination between governing bodies. That was an issue that could be addressed. Bearing in mind different points that had been made, the Delegation considered that these discussions should be carried out in a very specific manner. Member States should bear in mind that last year, one entire day of the PBC had been spent on discussion of these issues. It stressed that these issues had been addressed and therefore there was no need to rehash, time and again, the same proposals, especially since no final consensus was achieved on them the previous year, which was why the IAOC had to examine the issue. When talking about efficiency, good governance and management of meetings, Member States also needed to bear in mind the work that had already been done on these topics. The Delegation did not see the use of carrying out a study or even a pre-study that would look at restructuring the structures of WIPO.

91. The Delegation of Japan congratulated the Chair on his appointment and appreciated the excellent work done by the Secretariat and the IAOC. It also thanked the Chair of the GA for the consultations held and his presentation. As to whether to launch a new study, the Delegation aligned itself with the position of Group B. The Delegation believed that a new body should not be created. Instead, the existing resources of WIPO should be utilized in an efficient and effective manner because the WIPO budget should be used as efficiently as possible under the current global economic situation. Generally speaking, the Delegation believed that efficiency of the Organization should be pursued. In light of the aforementioned viewpoint, the Delegation was convinced that conducting a study was quite costly and therefore unnecessary.

92. The Delegation of China deemed the governance of WIPO a complex issue. Therefore, the solution to the existing problems should be found through a progressive approach. It

believed that, on one hand, WIPO should strengthen the communication and coordination between departments and increase efficiency as a method to strengthen governance. At the same time, it could explore other possible ways to achieve this goal.

93. The Delegation of the Republic of Korea associated itself with the statements made by Group B and Japan. In its view, quite an amount of information was already available with the possibility of a follow up study by the Secretariat. It believed that it was time to focus on how to improve functioning and operation of the existing bodies.

94. The Chair reflected that all delegations agreed that governance was a very important issue and that while there had been improvement, there was room for more progress and that efficiency in the Organization was what all delegations wished for. There was consensus that the issue needed to be studied and discussed further. Delegations made interventions on different levels of governance. The Chair remarked that the “hard core” governance issue in WIPO was that there was no continuous governance body; the CoCo met once or twice a year. The “softer governance” was the management of meetings. There was also the issue of governance in terms of existing bodies made better. The Chair felt that if these issues were opened for discussion at present, the discussion would never end. There was no consensus on the big study. There seemed to be limited support for the pre-study. What members had available at present was the collection of contributions from Member States suggesting ways to improve governance. Members could examine those submissions and propose what was feasible. The Chair, therefore, proposed to establish an open-ended working group composed of Member States or the Coordinators, chaired by one of the Coordinators alternatively, and attended by the Secretariat. Member States’ contributions would be grouped into the three types of governance issues mentioned before to facilitate discussions by such working group. The working group would present a report on its discussions to the next PBC. The next PBC would dedicate appropriate time for the discussion of the issue. The other option was to involve the IAOC and either request them to examine the submissions or request them to provide opinions on the recommendations that the working group would have made.

95. The Delegation of France expressed its surprise at the number of times Member States were being obliged to say the same thing about the same issues: be it for a new process, a new working group, a new consultation with a committee, discussions between Groups. Group B, its members and amongst those France, had been very clear on this issue and the consultative group and the GA Chair supplied a report on the process. The heart of the problem, as the Delegation saw it, was that if Member States found themselves discussing these issues in a working group, they would once again be charging various working groups and committees with extra work despite the fact that there was real work to be done. All Member States were well aware of the problems. They had excellent reports on what had been done in the 2010/11 biennium. It was up to everybody in the Committee to act on what had been reported, making specific and concrete suggestions. The Delegation failed to see what questions still remained. At every meeting Member States came back to the governance issue and the Delegation was somewhat concerned at this recurring fact. It concluded that if there was another working group, this was only going to slow down the improvements rather than getting closer to them.

96. The Delegation of the United States of America commented that from the experience of dealing with the *ad hoc* working group on the DA project report, Member States had spent 75 per cent of their time discussing what they had planned to discuss. It was very difficult to get anything done and the Delegation thought that some Delegates had said that the approach should be more multilateral. Member States should be discussing these issues in the Committee. The Delegation reiterated its earlier statement that it was looking for more of an “organic” type approach to solving any perceived short comings. It suggested discussing this issue more, rather than establishing working groups in order to determine what Member States wished to talk about.

97. The Delegation of Egypt was of the opinion that a working group would provide a platform and timing for discussion of different proposals on the table. It noted the point made by the Delegation of the United States that Member States had previously had some difficulty in a similar exercise. It believed, however, that such difficulties could be avoided by agreeing that this would be a formal working group, interpretation would be available in the WIPO languages and it would have a clear mandate to review Member States' proposals, either submitted or that could be submitted later, on a date to be decided. The objective would be to try to come up with specific recommendations on the three levels: hard core governance, soft governance and issues like meetings, etc. Therefore, the Delegation supported the proposal. In the meantime, Member States could agree to have more regular meetings of the CoCo, for instance, and recommend that the CoCo take up its duties and responsibilities as regards the Convention. It noted that some delegations said that Member States needed to think about the interaction between the CoCo and the PBC to avoid an imbalance whereby the PBC was overloaded with issues and the CoCo was not meeting and discussing issues properly. The Delegation suggested that this issue could be discussed through the interaction between the Chairs of the PBC, the CoCo and the GA. It believed that such a "troika" could guide Member States on the proper balance of work between these two important Committees. It thought that, as an early harvest recommendation, delegations could try to capture this during the present PBC session.

98. The Delegation of Switzerland associated itself with the statement made by the Delegation of France, which had very much enunciated the concerns regarding such a working group. The Delegation did not believe a working group would be useful. It felt that Member States would be recycling old discussions without coming up with new outcomes. Members could agree to hold discussions within the PBC, but in a targeted fashion, looking at tangible, well defined problems rather than dealing with a whole series of proposals coming from various directions, which had already been discussed without any outcome. Therefore, as far as the Delegation was concerned, the effectiveness and management of meetings should be improved. The Delegation was interested in looking at that area. As indicated by the Delegation of France, it would be more appropriate to do this on a committee-by-committee basis, rather than engaging in a broad sweeping discussion leading nowhere.

99. The Delegation of South Africa wished to react to some comments made in the first round of interventions. It agreed with other delegations that it was important to have targeted work. Hence, it was important to structure the discussions rather than just open up the discussions here. The Delegation believed that the way the Chair had grouped the topics into three groups made sense. It provided that structure that Member States said was important. There were issues that could be classified as hard issues, soft issues, and the managerial ones that referred to saving funds. Those issues could be easily discussed. It remarked that, although Member States had had a day to discuss governance issues at the last PBC, the discussions had only been on the issue of an executive board. The Delegation pointed out that the issues of WIPO governance were broader than the governance structure and went beyond the matters related to meetings (as the Delegation of Germany had said). The Delegation reiterated that discussions should be structured and believed that a working group could actually expedite the process. One could say that the tool of the working group was not going to be effective but the onus was on Member States to make it effective and productive by clustering the inputs made by Member States and discussing them properly.

100. The Delegation of Zimbabwe congratulated the Chair on his election to represent the African Group as the Chair of the PBC. The Delegation recalled that the issue of governance had been discussed in the PBC for some time and the reason Member States did not make headway was because they were generalizing governance. The Delegation considered that the Chair's summation was the right way to go and it was not sure why certain delegations were saying that it was recycling an old discussion. The Delegation concurred that it would be so if there was no structured format to address governance: some delegations would wish to focus on meetings, others on documentation, languages or on budget issues. As long as members did not put their heads together to come up with a structured format, governance would continue

to be discussed in an abstract way. The observation made by the IAOC was particularly important; they could not venture into taking decisions because the governance issue was a political decision. As long as Member States continued to speak in the corridors they would never be able to address it. Discussion in a smaller room, open to everybody, was the most practical way to move forward. Delegations should stop hiding behind the format of the meeting. The question was whether members were prepared to discuss it in a structured way. The format itself did not show the outcome of the meeting but it was the desire to achieve the objective. It seemed to the Delegation that some delegations were hesitant to discuss governance issues in WIPO, but they were very interested in discussing governance issues in other organizations. It added that unless there was a political will to discuss these issues, Member States would remain at zero point.

101. The Delegation of Algeria supported the Chair's proposal of a small working group. Commenting on other delegations' interventions, it noted that certain delegations tended to compare things which were not comparable. It said that the situation with the CDIP working group was unlikely to be repeated in this case. The CDIP working group had been convened to examine recommendations of experts. In the PBC, Member States would be looking at proposals from other Member States. In other words, recommendations made from within their ranks, for them, by them. Therefore, such a working group would operate differently from the CDIP one. Secondly, the success of such a working group would be utterly dependent on the members' approach to it. There was a need for good faith and willingness to look for solutions on the part of Member States joining the working group. Success depended on the flexibility accorded by Member States to this issue. It was not so much a problem of feasibility. Rather, the creation of this working group and its outcomes depended on the flexibility and good faith of the Member States.

102. The Delegation of Pakistan wished to take a step back and look at the present situation. Member States were not willing to do two things. One, there was no agreement with regard to conducting a study. Second, all of the Member States were not ready to have an unstructured discussion. On the basis of experience, the Delegation would not like to waste time going into an unstructured form of work, which most delegations would agree with. Taking a step forward and looking at the Chair's proposal, members needed to move in a certain direction so that they could solve the problem. In the Delegation's view it had to be a two-step approach. The first step would be to identify the governance issues that needed to be addressed. The Delegation agreed with the Chair's groupings of hard core and soft core issues. As for the process and how it would be formulated, the Delegation believed that during this session of the PBC, Member States needed to identify those issues and identify the process. After the PBC, and until the next, Member States would work on that process, which could be the one that the Chair proposed. In that way they could have structured discussions in the working group. The Delegation remarked that although it was not a very big fan of working groups, it would not like to sit back and do nothing. That would be more harmful than going through a process. It proposed that, during this session, Member States identify the issues within governance, work that had already been done to quite a detailed extent, and launch the process after the PBC.

103. The Delegation of Brazil (speaking on behalf of the DAG), reflecting on the issues put forward by different delegations and the Chair's proposal, was pleased to see the proposal to create categories of issues to be discussed. This might make the debate more structured. It also created room for allowing some actions on which members could reach consensus more easily than on others. It could be implemented soon, without prejudice to further consideration of more complex or hard core issues. Further, the DAG supported the idea of having a working group and considered that launching a process was a good way to move forward. There was no need to wait another year to start discussions and try to formulate a recommendation. Discussion could start earlier. This was also conducive to expediting discussions in the next PBC and could lead to a more focused exchange of views. This had been articulated by different delegations from different Regional Groups. Member States could identify items to be implemented and even discuss more complex issues that demanded more elaboration. This

was without prejudice to having something to implement in the short-term. Many valuable inputs were found in the contributions received from delegations and Regional Groups. The Delegation thought that it was necessary to do justice to the hard work that all delegations had put into submitting their suggestions, and find ways to implement them the best way possible to enhance the efficiency of this Organization.

104. The Delegation of Spain agreed with the points raised by the Delegation of Pakistan. There were various stances and it had to be said that it was difficult to know how members were going to move forward. One of the issues that most concerned the Delegation was the extension of the duration of committee sessions and meetings. It believed that sooner or later all those issues would have to be debated in each and all of the groups. It suggested that, within the PBC, Member States could seek to link this debate to the savings measures because all of these issues linked together under the umbrella of good management of meetings. Member States could also do something helpful i.e., to involve the Secretariat. It was very important for Member States to engage in dialogue. It was also important to ensure that Member States had the necessary information from the Secretariat to pinpoint savings that could be made in meetings' costs. It believed that the Secretariat had a great deal to say on this issue. That might be an approach at the start of the debate and the Delegation was under the impression that this point seemed to have received some support and unanimity.

105. The Delegation of Japan supported the statements made by the Delegations of France, Switzerland and the United States of America i.e., that the issue should be discussed in the context of the PBC.

106. The Delegation of India congratulated the Chair on his appointment. The Delegation supported the establishment of a working group and a focused discussion on WIPO governance. It added that, in this connection, submissions given by the Delegations of Brazil, Egypt and Pakistan contained very good suggestions. The Delegation supported those proposals.

107. The Delegation of Peru considered that the issue of governance was important and believed that the Chair's proposal was positive, in as much as it would enable Member States to engage in focused discussions with those members who had presented proposals and would be interested in working on them. In general terms the Delegation agreed with the Chair's proposal.

108. The Delegation of Italy congratulated the Chair on his nomination. It associated itself with the statements by the Delegations of France, Spain and the United States of America and the suggestion that Member States follow a pragmatic path and try to find, within the PBC, how they could achieve concrete results on the management of meetings. If the results could be easily achieved, it would contribute to the improvement of the efficiency of WIPO's bodies.

109. The Delegation of Germany reflected on the matter of the issues and the process. The issues were not problematic. The most difficult was the process: a working group and the wish for a targeted discussion. The main problem Member States had to reflect on was the process and who set the targets so that members could have a meaningful one day discussion. This was the core of the problem to which the Delegation had no solution. It also remarked that sometimes a moderator was needed during discussions. The rotation of the working group's chair would be agreed on one week and it might be re-opened the following week, from the Delegation's experience. Perhaps Member States needed a third-party, which could not be the Secretariat or a Member State. The Delegation did not know who the mediator could be but was convinced that Member States needed more input on the process.

110. The Chair, speaking on the last point raised by the Delegation of Germany, said that if members agreed on this idea, then they would have to decide who would chair the working group. It could be an ambassador. On the point concerning the issues: the Chair agreed that

members should not “shoot themselves in the foot” by doing nothing and simply discussing it again in the PBC. This would not be good governance or good management. Discussions were going to take more than one day. The Chair’s proposal aimed to give maturity and to begin the process in which the issues could be crystallized. All delegations were experts in UN matters. Eventually, meeting after meeting, certain issues would come up while others would wither away. Therefore, when Member States would come back to discuss it in the PBC, they would be saying “apples, oranges and bananas”. The idea behind a working group was to categorize the issues as hard core issues, current bodies and management and take it step-by-step from now to June. In June the working group would present its recommendations to the PBC, which the PBC could discuss in three hours in a structured way. The working group would propose recommendations and request a yes, or no answer from the PBC. The other option was worse. Of course, a study could be done, but being realistic enough, a big study would cost money. The Chair hoped that with this explanation, those members who were not enthusiastic about the working group could yield and adopt the proposal so that it could go ahead, instead of Member States continuing to discuss governance. The issue would be discussed once and for all or else it was going to be on the agenda and there would be no improvement. The Chair called on Member States to agree to the adoption of the proposal.

111. The Delegation of the United States of America admitted that it was not very enthusiastic about the working group as it had seen it tried in other committees and it had not worked. It supported what the Delegation of France and some others had said about a focused discussion within the PBC and believed that it was the way to go so all members could participate. As far as flexibility went, the Delegation asked for some time to discuss and coordinate on this within the Group. Taking a decision at that moment was not an option for the Delegation.

112. The Delegation of France did not comprehend what was hampering Member States from expressing their point of view on governance at this PBC as members broached key issues in the reports on the table. It was something that had troubled the Delegation for some time now. The Delegation had always believed that the documents at the PBC covered the whole gamut of topics that allowed Member States to look at them and that the IAOC, in general, broached the key topics. Therefore the Delegation did not see what the obstacle was to the delegations expressing themselves on the available documents and raising all issues that were problematic for them. The Delegation affirmed that it would continue to systematically talk about governance in the PBC, which it already did in every meeting. There should be no problem with talking about it as all the information was available. The Delegation said that when it had a concern on how a meeting was being worked or how a policy was being carried out, it expressed itself freely in these fora. So, if members wanted to identify an initial topic to address within governance, it could well be “what is not available in the documents submitted to us”. The Delegation pointed out that it was a huge task to read 26 reports. Those who had read the five reports on the 2010/2011 biennium could tell the others what was missing in them. All the information needed was there. The Delegation proposed to start by saying that the information was not properly used because, perhaps, there were too many reports and Member States did not have time to read them all. That could be an interesting discussion.”

113. The Delegation of Egypt referred to the conclusions of the GA Chair’s consultations. It added that Member States would not start from scratch as they had the GA Chair’s report and recommendations for the way forward. Paragraph 3 of the report said that, as part of the consultations, the consensus opinion had emerged that performance, efficiency and coordination of existing governance structures were to be enhanced which, in turn, primarily rested on the commitment of the Member States themselves and the management of the governance bodies and organs. Member States had previously agreed that they needed to discuss this issue and take it further. Leaving the issues until the next June PBC would mean that a lot of time might be wasted. The Delegation supported the idea of engaging in the intersessional work on this issue. It recalled that one option, which was free of cost, was to write to the Joint Inspection Unit (JIU) Chair explaining that Member States were doing this exercise and would like to be guided by other practices in the UN. This would not entail any

cost. At the same time, Member States would benefit from the experience of an independent UN expert on this issue, while, at the same time doing some intersessional work as well.

114. The Delegation of South Africa recalled that the African Group had already made the suggestion on the JIU. However, the Delegation thought that Member States wished to discuss the issues themselves for it to be a member-driven process. It added that if there was difficulty with that approach, members could always commission the JIU to do an independent study, mindful that, the governance issues that were under discussion were guided by a JIU report. Therefore, Member States could request the JIU to guide them on this process. Alternatively, Member States could follow the Chair's suggestion for structured work in the form of a working group. Replying to the Delegation of France, which had posed the question on what prevented Member States from raising whatever issues they wanted to raise, the Delegation said that it had looked at all the proposals that had been made. The Delegation recalled that, at the last session, it had cited specific suggestions made by Member States. For instance, Australia, France and the United Kingdom had made substantial contributions. The Delegation did consider it practical to discuss everything. Members needed to structure the issues properly and address all the views presented in the submissions by Member States. There were 12 contributions, two from Regional Groups. The Delegation was not in a position to discuss matters haphazardly, it wished to have a structured discussion.

115. The Delegation of Venezuela (Bolivarian Republic of) stated that governance was clearly a political problem. One thing was clear: Member States needed to address this topic. Part of the forum stated that everything was crystal clear and that members could articulate everything immediately. Another part of the forum stated that they could meet in smaller groups and make it profitable. Both avenues were valid. Delegations had had an open discussion in previous meetings. Discussions were never useless, something was always achieved. A group for which things were crystal clear was prepared to work in June. The Delegation suggested that the other group, which was still unclear on certain matters, should be allowed to have intersessional meetings with the Secretariat and those that they deemed necessary, in order to prepare their arguments to be able to discuss matters with those who saw things clearly. The Delegation did not see why delegations should spend hours discussing whether or not to create a working group when clearly governance was a topic that needed discussion.

116. The Delegation of Switzerland supported the Delegations of France and the United States of America in their statements, to the extent that a working group was useful. It stressed that Member States needed to have a very targeted discussion if they were going to move forward. The conclusions of the GA Chair were not really a recommendation to continue the work here. The report said that the issue on which there was convergence was the efficiency of committees and their interaction. The roles of different governing bodies could be looked at. It was a very specific issue where the Chair had seen a certain amount of consensus. Regarding the issue of the working group, the Delegation recalled that these mechanisms had been tried in the past and had never been successful. There had been working groups without any results. It had been fruitless. Member States had asked the old Audit Committee to provide reports. The same reports were provided by the IAOC. The Delegation did not really see where Member States could go from there. As the Delegation of France said, members had documents on the table. There were issues that could be improved on. Members States should do it.

117. The Chair summed up that there were two proposals on the table: the establishment of a working group and the proposal from the African Group to commission the JIU study. The latter would be free of charge and would benefit from the JIU's experience. The Chair said that he saw some agreement emerging and added that some delegations would not be opposed to the idea of a working group as much if it was targeted. The Chair concluded that he would allow time for consultations on these proposals and proposed a break in the meeting.

118. In responding to the Chair's summary, the Delegation of the United States of America pointed out that there was one other proposal that had been made by the Delegation of France

and some others, which was that Member States have a more focused discussion in the PBC. That should be the third option: to discuss these issues in the PBC.

119. The Chair responded that for the third option to work, it would have to be targeted. It meant that it would have to be decided what would be done in the PBC and agreed on an outline: what was the process, how members were going to arrive there and which issues were we going to be discussed first. The Chair pointed out that there was opposition to the idea of taking it up in an unstructured way in the PBC. Delegations would have to agree that, e.g. on the first day of the PBC they discuss the hard issues, for example, the need for a new structure. The second issue was: which of the existing 12 or 13 papers were going to be discussed. Therefore, if Member States were going to do it in the PBC they needed someone to prepare that outline for them. It could, of course, be one option, but delegations would have to see how they could take it up in a targeted and structured manner.

120. The Delegation of Spain stated that it had also made a proposal, which would be to debate the issue of efficient management of meetings related to the cost saving measures of the Organization. That would allow Member States to debate a topic that seemed to yield a consensus and do it already in the present PBC session.

121. The Chair reflected that there were many issues within governance as well as the issue of structure. Even if members decided on the general framework, to which there was no opposition, there were different ideas where to put it within the structure. Therefore, the Chair wished to adjourn the meeting to allow for consultations amongst the Regional Groups.

122. The meeting resumed after recess and the Chair invited the Regional Groups to present the outcome of their consultations.

123. The Delegation of the United States (speaking on behalf of Group B) stated that, unfortunately, Group B could not accept the proposals to launch a formal working group or to go along with the JIU investigation or inquiry. The Group explained why it did not think the working group would necessarily get the membership where it needed to be. It recalled that, in 2009/10, at the time of the old Audit Committee, Member States had formed a working group to address certain issues, including governance. Unfortunately that working group had ended badly. It seemed that when Member States got into a small, formalized environment they did not reach consensus. Group B suggested keeping the process more informal: the Regional Coordinators and interested parties. The involvement of the Secretariat was not necessarily needed, although members could call on the Secretariat from time to time to answer questions. Member States should, in these informal discussions, focus more on developing a list of concerns rather than issues. They would examine the proposals and see what things in the governance of WIPO they needed to change: again, focusing on concerns, not so much issues. That was Group B's position at this point.

124. The Chair requested the Delegation to specify who would lead such an informal process.

125. The Delegation of the United States of America replied that the Regional Coordinators could lead it. There was no need to get as formal as chairs and vice-chairs. It would be the Regional Coordinators getting together with two or three interested members from each Group, sitting down and having very informal discussions. The Delegation remarked that when members get into the interpretation issues, agenda, etc., it started to break down. It noted that if discussion would be kept informal and focused on concerns, they were more likely to reach an outcome where there would be a targeted list of concerns as members come to the next PBC for discussion.

126. The Chair inquired whether that scenario would also lead to a structured discussion in the PBC. He further said that if it was decided to do the informal process, there would still have to be a structured discussion in the PBC, for example, (a) governance of structures; (b) current

bodies within WIPO and their general management and (c) financial issues. He hoped that such an informal process would lead delegations to have a structured discussion in the PBC in the three categories that he had outlined previously. He wondered if that was what was envisaged by the proposal.

127. The Delegation of the United States replied that members would be looking at the concerns that they had. Whatever categories those were, it could be the three that the Chair had presented. The Delegation thought that a lot of delegations had said that, once in the PBC session, they needed to have a targeted discussion. It added that the informal process would lead Member States to identifying those concerns that were most important, perhaps under those three categories.

128. The Delegation of Pakistan sought clarification on the proposal by Group B and the idea that an informal process would discuss and develop a list of concerns and not a list of issues. The Delegation wished to understand better what the difference was between the two and whether Member States would be only be looking at, sorting and discussing the problems or also the possible solutions.

129. The Delegation of Hungary (speaking on behalf of CEBS) supported the proposal by Group B as an alternative to the other two proposals mentioned by the Chair before he had suspended the meeting. The CEBS considered the proposal for an informal Regional Coordinator-led process much more in line with its views.

130. The Delegation of Egypt (speaking on behalf of the African Group) said that members had not had a chance to consult across the Groups. The views of many members of the African Group were that the preferred option was to request the JIU to address this issue and discuss it at the next PBC. However, the Group was open to consultations with other Groups on the two options. The Group wished to note that the idea of an informal consultation mechanism might put Member States back into the same difficulties that they had experienced during the CDIP working group on the technical assistance review, as highlighted by the Delegation of the United States. The African Group highlighted that it did not wish the same set up leading to confusing discussion on the timing and engagement, the agenda, the mandate and interpretation. The Group wanted the work to be cooperative and productive.

131. The Delegation of Brazil (speaking on behalf of the DAG) thanked the Delegation of the United States for the new proposal and added that it needed to consult among the Group members. At this point the DAG was not in a position to take a decision.

132. The Chair inquired as to the reasons for which the United States did not welcome the proposal involving the JIU, even though it would not involve spending money.

133. The Delegation of the United States of America replied that this was a Member State-driven Organization. Member States were the best ones to see the issues and did not need to farm this out to the JIU.

134. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, stated that the issue had to be discussed and Member States had to find a way forward to do it. The present problem was whether there should be a formal or informal working group. Member States should focus on this issue right now and discuss it within the Groups. The Asian Group was not certain what the outcome of the informal meetings would be, how the process should be called and should the outcome be presented to the PBC for taking a decision. To be able to go forward, members needed to focus and decide on some clusters for discussion. Another point to discuss at present was whether, if the PBC decided to have an informal working group, this informal group's outcome would be formally delivered to the PBC.

135. The Delegation of the United States of America clarified that whatever report would be given to the PBC, it did not need to be formalized. Regional Coordinators could simply discuss

the issues, identify the concerns and, as Coordinators, come to the PBC with consensus positions on what Member States would need to discuss within the three categories outlined by the Chair. The Delegation was convinced that the success of the exercise would depend on how informal it was.

136. The Chair proposed the following text in the spirit of compromise: "The PBC, having reviewed the issue on governance, decides to continue its review of this issue through an informal consultation process led by the Group Coordinators. The outcome of this process shall be presented in a structured manner for the PBC's consideration under the following three categories: (i) governance structure; (ii) better utilization of current bodies; and (iii) efficiency and management issues."

137. The Delegation of Australia congratulated the Chair on his nomination and sought clarification on the role of informal consultations. In its understanding the role of informal consultations was merely to identify the concerns which the PBC would consider at its next session.

138. The Chair replied that, as explained by Group B, the process would be informal; it would be led by the Group Coordinators. They would discuss issues. The rationale behind it would be the same as the working group. It was a melting pot for maturing of ideas. Once the matter would get to the PBC, everyone agreed that the issues would be divided and structured.

139. The Delegation of Algeria thanked Group B for its proposal. As a preliminary comment, the Delegation found the proposal more or less interesting and raising certain problems. If the informal consultations were led by the Regional Coordinators, the question was who was going to actually 'take the bull by the horns' and organize them, take the initiative to convene the consultations and when and where they were going to be held. If a Regional Coordinator was present and a Group was not present, there would be representativity concerns. This consultation process, by rendering it too informal, did not actually serve Member States' purposes. They would not have any specific results and not the results they wanted before the next PBC session. Nor would they have anything that could improve their work. The Delegation suggested drafting a text, on the basis of the Group B proposal, that would formalize the consultations slightly: at least choosing a chairperson and proposing a tentative number of meetings. These were the issues to be addressed at present.

140. The Delegation of Egypt thanked the Chair for the proposed text and asked if the basis of the consultations could be the Member States' proposals submitted on this issue and whether Member States could have the chance to conduct interviews with the Chairs of the PBC, the JIU and the GA to discuss the nature of the interaction between the three organs of governance and perhaps come up with some recommendations for the PBC and the GA on the issues regarding governance. This would make the work more productive. The Delegation shared the views expressed by the Delegation of Algeria regarding the clarity of the process, i.e., who will be the chair and the frequency of meetings under this mechanism.

141. The Chair opined that there was no contradiction between having an informal consultation process and having a chair. He added that if Group B accepted that, it could still have the informal consultation but with a chair. As many Groups had noted, without a chair leading and calling the meeting, who would be putting things together? The process would be informal but a chair would be the institutional memory and she/he would report back to Member States. In the Chair's opinion, a chair of the process, in terms of organization, would smoothen it. The Chair called for a compromise: a lot of time was spent on discussing it and decision was very close. All delegations knew what the end objective was, i.e., the PBC would deal with it seriously, in a structured manner. At present, Member States were planning the journey. They wanted the vehicle to be an informal vehicle, but also the one that would not be going in different directions.

142. The Delegation of Brazil thought that the Chair's proposal captured many interesting elements. The Delegation requested clarification as to the composition of the informal consultative group and whether it would be open-ended so all delegations could participate in it.

143. The Chair responded that one of the ideas could be to have both, a chair and the Coordinators. The Coordinators could make it open-ended. He added that for the sake of expediency, once the Coordinators met and an informal chair came in, he/she could ask what the Coordinators wished to do and if they wished it to be open-ended i.e., plus one, two or three delegates from each Group.

144. The Delegation of Switzerland found the Chair's proposal very informal and general, which led the Delegation to raise certain concerns that other delegations had already mentioned. For the Delegation, it raised more questions than it answered. One, how would this be organized. The Regional Coordinators should meet and identify topics that should be addressed in the next PBC, because the goal was to have a debate in the PBC and not in other fora, informal or otherwise, or formal working groups that the Delegation did not see the use of. The Delegation wanted to identify consensus topics that could be discussed usefully in the PBC. The Delegation thought that, otherwise, Member States would start, once again, the debates that they had initiated three years ago during which specific decisions had been taken. Everything was still on the table; even the issues that were known not to be fruitful were still on the table. The Delegation stressed that Member States needed to identify the consensus topics for the next PBC meeting.

145. The Delegation of the United States of America could not stress enough that the informal discussion should be just that, informal. If it was kept informal, restricted to Regional Groups and interested parties, members did not have to have a specific outcome document for presentation to the PBC but just ideas, or concerns that they would have identified or narrowed down in these informal discussions. These would perhaps fit into the three categories identified by the Chair. The Delegation stated that if members were going in the direction of a working group, Group B could not accept that.

146. The Delegation of Angola congratulated the Chair on his nomination. With respect to the proposals on the table, the Delegation reflected that, technically, Member States were trying to move forward without taking any expected decisions, and delay everything until the next year. The Delegation understood that Member States needed to discuss matters to address governance. They needed to identify common ground. The problem was that even if that was identified, there were no experts who had the wherewithal to address technical issues. It was therefore very important for the PBC, at the very least to require an investigative inquiry from the UN in order to come up with a general approach. A more specific mechanism was needed because delegates were not knowledgeable in all areas. A general discussion would be held without any specific and concrete measure at the end. The Delegation thought that all that had been said could be taken on board but Member States also needed to look to what extent they could ask for a report from the JIU. This would help identify topics clearly and thus would help reach a consensus. This approach would be more practical than merely holding informal consultations before June 2013. Otherwise, in the June PBC, members would say once again that they did not agree, because informal consultations would not be legally binding on Member States. Any Member State could say that it was not part of informal discussions and disagree with their conclusions. The Delegation believed that the proposal should be strengthened by requesting the JIU to do its work so that Member States could examine specific recommendations and find solutions.

147. The Delegation of Pakistan wished to make several comments without prejudice to the solution to be reached. The option of the JIU report was still on the table. Focusing on what Group B had proposed with regard to finding the probable solution, the entire debate was revolving around 'remaining focused'. Whatever work Member States did, it should be focused, not abstract or limited in any terms. First, the PBC would decide to continue discussions

through open-ended informal consultations. If they were open-ended that would take care of the fact that interested Member States could be a part of the process. Second, (the sentence on outcome in the draft decision text): “the outcome” – add “focusing on identifying probable solutions”, continue with “shall be presented in three categories etc.” That would ensure being focused. Learning from the earlier experience, the Delegation supported the need to have a chair to guide the work. It remained open to who the chair could be. It added that the Secretariat could do the reporting on the meetings held. Then, the next PBC would discuss the issue. It should also be kept in mind that the next PBC meeting would be the budget cycle meeting. Therefore, there would not be time to start the work from scratch. Hence, members would need to have some concrete and tangible solutions to work on.

148. The Delegation of South Africa sought clarification before endorsing Group B’s proposal. “Informal consultations led by Group Coordinators” was the only caveat that the Delegation was not familiar with in WIPO. It found the format for such informal consultations strange as normally informal consultations were led by the chair of the particular committee that sanctioned them. It wished to know how this was different from other informal consultations that Member States normally had. It added that, normally, Member States took decisions on informal consultations. This was different from a working group. The Delegation emphasized that it wanted an open-ended process because of the experience of meetings led by Regional Coordinators where decisions were taken in the absence of most of Member States. The issue of interpretation was also important. It impacted some members of the African Group. The Rules of Procedure provided for, at least, French interpretation. The Delegation was aware that cost should be avoided but firmly requested assurance that the Rules of Procedure should apply to such informal consultations.

149. The Delegation of China was content to see Member States continue to discuss, and begin to form consensus on the discussion of governance in WIPO. The Delegation felt that in order to see that the next PBC could carry out discussions and achieve substantive progress, Member States should be clear on what was to be discussed during the meetings and in what fashion. The Delegation agreed that, before the next PBC meeting, Member States could hold some informal consultations. However, these consultations, and the way to progress in order to achieve the expected results, were matters to be discussed further by the Member States.

150. The Delegation of Switzerland wished to react to the statements made on the need to formalize the informal consultative process. It recalled that, in the past, Member States had a process (which had affected the issue of governance recommendations), regarding the work carried out on the mechanism for the new procedure for the selection of the PBC members. The Delegation pointed out that it had been a completely informal process, spontaneously set up by Regional Coordinators, which had worked extremely well. There was no chairman, but the countries had been motivated and wanted to work. The group had met regularly and called itself ‘the cafeteria group’. Interested delegations from each Group had attended. It had been a completely voluntary format. It included the Regional Coordinators, with the focus on resolving specific problems. The work had been carried out very informally and well. The solution had then been presented to the PBC. This proved that there was no need to formalize this proposal further. Members would identify consensus key topics, the mandate could be given to Regional Coordinators so that they organized themselves as they wished. This type of mechanism had been successful in the past, more so than formal arrangements with a chair.

151. The Delegation of France wished to address the proposal of the compromise solution. It believed that the Chair had tried to take into account all delegations’ views. There were the three categories, which was an interesting approach. Afterwards, membership could discuss endlessly how these categories could be fleshed out, but the major outline had been made. That suited the Delegation. The second issue was the output document, i.e., the report that would cover every category, the list of major concerns expressed by Member States, which would allow members to move on from today. In other words, Member States would actually know what they were talking about because, even now, the Delegation did not hear a single

specific comment on governance issues that it could “sink its teeth” into. The list of problems would be defined. In the Delegation’s view, in order to produce the output document, following consultations, the salient points should emerge much better than what members had at present. The Delegation was supportive of the three categories, which it found useful and added that the more informal they were, the better. If members would agree with the document as it emerged during the discussions, it was not important to be formal or informal. What was important was to produce a list that truly reflected the concerns of Member States in this forum.

152. The Delegation of Angola remarked that the Delegation of France summed up its earlier statement. It was clear that no Member State or group of Member States would be able to identify concretely today which structure did not work well. This could be simplified by a report handed down by the JIU. This was how it was done in the UN in New York. Even Group B, in other fora where similar discussions took place, was aware of this. Group B had proposed this type of move. Member States had discussed this type of issue and had reached a compromise solution. The Delegation thought that things should be simplified by using a UN mechanism that would look at the structure and propose recommendations, on the basis of which Member States could see how the informal context could work.

153. The Delegation of Egypt recalled the evolution of the issue. There was the IAOC recommendation to have a study on WIPO governance, then, there was the proposal to have a pre-study on the study, followed by the recommendations from the African Group to refer the whole issue to the JIU, followed by the proposal for a working group. There was also the idea of an informal working group, which was still objected to by several members. Given the situation and the sensitivity of the issue at hand, which was governance in WIPO, and which could not be dealt with in this discussion, Member States could ask the Secretariat to write a report on the discussions and the different proposals presented at this session. The Delegation further suggested that Member States elevate the matter to the GA because the GA had the mandate to discuss this issue and it was perfectly well suited to give direction to the Organization on how to progress this issue building on the views and the discussion conducted in this PBC session.

154. The Delegation of South Africa concurred with the Delegation of Egypt. The Delegation stressed that Member States could not treat this important issue lightly by delaying important decisions. It was essential to be clear as to what the informal consultations would be doing. The Delegation had reservations to narrowing the focus only to a list of major concerns or identifiable consensual issues. It could not be limited to only those issues. There were a number of proposals, which needed to be clustered, so that coming into the PBC, members would have done work in advance. The Delegation did not support limiting the work of the consultations to only identifying issues that might not be agreeable to all. At least if Member States could cluster the issues and have preliminary discussions, then, the formal discussions would take place in the PBC.

155. The Delegation of Cameroon congratulated the Chair on his appointment and thanked the Secretariat for the documents supplied. It supported the suggestions made by the Delegation of Angola to consult a specialist (the JIU). That would be more credible, give more clarity and coherence to what Member States wanted to do. If Member States did not do that, they would keep repeating the same thing year in and year out.

156. The Chair remarked that, trying to be compromising and pragmatic and having heard some of the remarks, the membership could be very close to reaching solution. At the same time, members should keep in mind that there was a process, which was the PBC. The Chair read out the amended Group B proposal, taking into account some of the comments that had been made. He added that the text would not please everyone but thought that it was a step forward. The amended text read: “The PBC, having reviewed the issue of governance, decided to continue its review of this issue through an informal open-ended consultation process led by a chair and Regional Coordinators. The outcome of this process shall be presented in a structured manner for the PBC’s consideration under the following three categories:

(i) governance structure; (ii) better utilization of current governing bodies in WIPO; and (iii) efficiency and management issues.”

157. The Delegation of the United States of America, noting the late hour, stated that it would prefer to discuss the text with its Group in the morning.

158. The Chair concurred with the proposal and added that the text would be made available to delegations for consideration and possible adoption the following morning. The Chair also proposed that the Coordinators confer with each other and not only consult within their respective individual Groups.

159. The Delegation of Angola suggested that the Chair’s proposed text should capture the idea of a study by the JIU. That should also be discussed by the Coordinators in their informal discussions.

160. The Chair resumed the session and invited comments on the amended proposal.

161. The Delegation of the United States of America, speaking on behalf of Group B, stated that the Group had proposed a very informal mechanism. It added that the proposal, as amended by the Chair, had developed from some of the interventions and had formalized it. The Delegation thought that, in such a format, it was getting away from the Group’s idea of keeping the process as informal as possible. Group B had coordinated this morning and had had a rich discussion on what it thought would be the best way to accomplish this exercise. The Group had the following new proposal. "The PBC, having reviewed the issue on governance, decided to facilitate the PBC's consideration of these issues through informal open-ended discussions with the objective of identifying key issues of mutual concern for further discussion by the PBC." Group B was of the opinion that Member States did not necessarily need the three formal structures regarding the outcome. The purpose of the exercise was to come together, identify the concerns and then have a more full debate in the PBC.

162. The Delegation of Brazil, speaking on behalf of the DAG, took note of the new language for Group B's proposal. It added that the DAG needed to consult and coordinate. The DAG’s stance was that it supported the Chair’s proposal of the previous day, leading to an open-ended consultation with the structure outlined by the Chair. There was also a proposal regarding the possibility of consulting with the JIU to ask them to make a study of governance at WIPO. It had also been said in the other day’s discussion that it would not entail any budgetary consequence. Therefore, the DAG also supported the suggestion to request the JIU to make an assessment of governance at WIPO.

163. The Delegation of Hungary, speaking on behalf of the CEBS, stated that the language presented by Group B represented better what the CEBS thought the idea of this exercise was. The CEBS preferred that language to be adopted by the Committee. It thought that the JIU report on governance was unnecessary. Such an exercise had already been conducted in WIPO and the IAOC report together with all the work done in the last three years were sufficient. Member States did not need another general report or study on this issue. The CEBS considered that it would not be efficient, as it would delay the discussions and there would be no added value from such exercise. The CEBS did not support the JIU study.

164. The Delegation of France wished to comment on the idea that the reports of the JIU were free of charge. It pointed out the French Government financed up to 6 per cent of the UN budget, which, in turn, financed the JIU. Other delegations present in the room also contributed to the UN budget. The Delegation called the membership’s attention to the fact that the members of the UN General Assembly were to consider the global sustainability of the UN. The Delegation wished to correct the idea that somebody worked for nothing. It stressed that Member States had the duty to identify the precise added value of studies, taking into account studies already completed, the recommendations arising from them and the follow-up. All such

data were provided in the report on the table. The Delegation did not find it possible to accept the idea that a JIU study was free of charge. If done, it would be to the detriment of other studies because the JIU had to choose its workplan annually, in coordination with the Member States and therefore this was not neutral.

165. The Chair summed up that there were three issues: the proposal that he had put forward the previous day, the counterproposal from Group B and the JIU proposal. The options were to either keep discussing them or to ask the Secretariat's advice on how to solve the situation, i.e., "do you vote or not vote". The Chair emphasized that he had no intention to waste time and added that Member States had to find a way to solve this issue. He offered giving delegations time to consult and confer with the Secretariat on what was usually done in similar situations, because Member States did not want to go on forever on the matter. Either delegations took the time, the Groups consulted with each other or there was no use to have a continuous discussion. In terms of management, this would be a waste of time. He thought - as Chair - that the discussion had been saturated and stressed that Member States had to take a decision, whatever that decision was.

166. The Delegation of the United States of America wished to make a plea with other delegations. It emphasized that what the delegations were trying to accomplish was to identify issues and concerns how the Organization could be better governed. That was what it boiled down to. The Delegation thought that deciding on the formality or informality of the meeting should not prevent Member States from making progress. Member States should come together and try to identify the issues and present these issues or concerns to the PBC. This was not an exercise where they were going to solve all the problems; they wanted to identify the problems. The Delegation pleaded with other delegations in the room to focus on that, and that members launch into informal discussions letting them play out as they would. A lot more would be accomplished if it was not in a formal setup where members would have to agree on a chair and other matters already mentioned. If Member States could get the ideas out on the table, talk about them and prioritize them, then, at the next PBC they would have something to discuss more fully.

167. After recess, the Chair resumed the session and reminded delegations that, as requested by Member States, meetings were Webcast live. The Chair hoped that the Groups would make it their *modus operandi* to come together and talk on issues, which would enable reaching agreement faster.

168. The Delegation of Brazil reported that a very constructive discussion with delegations from different regions took place during recess. It thanked all participants for contributing ideas. A new text was agreed on as a result of these consultations. It was also agreed that, afterwards, there would be a final consultation within Groups. The Delegation believed that the new text captured the spirit of what Member States were trying to accomplish. The text read: "The PBC, having reviewed the issue of governance, decided to continue its review of this issue through an informal open-ended consultation or discussion arranged by a Chairman or facilitator (precise word to be decided). The outcome will be presented in a structured manner to the PBC for consideration, including, but not limited to the following categories: (i) governance structure, including, but not limited to better utilization of current governing bodies in WIPO; and (ii) efficiency and management issues."

169. The Delegation of the United States of America wished to make its second plea of the morning: when the Groups discuss the new text that they come back with either 'yes' or 'no' answer. There was no further modification. Either delegations could live with it or they could not live with it. If members could not live with it, they would need to move on and discuss this in the next session.

170. The session went into recess to allow for the Groups' consultations.

171. The Delegation of the United States of America (speaking after a break, on behalf of Group B) said the Group B examined the amended proposal and had some concerns with it. It suggested moving on from this issue. Regional Coordinators plus one would meet on the margins of the meeting, and perhaps it could be discussed the following day.

172. The Delegation of Egypt, speaking on behalf the African Group, endorsed the proposal and said that it would engage in discussions with other Groups, especially Group B, in order to discuss the remaining concerns. It hoped that a decision would be reached shortly.

173. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, had no problem with the proposal. However, since some concerns about it had been expressed, members could wait until the following day, when, hopefully, Member States would be able to reach consensus on this issue.

174. The Chair concluded that it was decided to continue consultations by the Group Coordinators to finalize the text by the afternoon of the next day, at which time a decision would be taken.

175. The Chair read out the text of the decision on item 5, as drafted following consultation between Regional Groups: "The PBC: (1) takes note of the report of the General Assembly's Chair, the IAOC report and Member States' remarks expressed on it, document WO/PBC/19/26; (2) having reviewed the issue of governance, decided to continue its consideration of this issue, including an informal open-ended consultation led by a Chair. This process will review Member States' proposals on governance, starting from existing Member States' submissions, including, but not limited to documents WO/PBC/18/20 and WO/GA/38/2. The outcome of this process is intended to identify by consensus issues of common interest, and possible improvements relating to WIPO governance system, and recommend them to the next PBC in a structured format, for consideration, including, but not limited to the following categories, (i) governance structure, including, but not limited to roles, responsibilities, and enhancing effectiveness of current governing bodies in WIPO; and (ii) efficiency and management issues. Three meetings will be held. Interpretation services into French and Spanish will be provided. This process is without prejudice to the right of Member States to advance the proposals. (3) decided that the issue of WIPO governance would be an agenda item for the 20th session of the PBC."

176. The Delegation of the United States of America, speaking on behalf of Group B, suggested that the second sentence should read: "this process will review Member States' proposals on governance, starting from existing Member States' submissions, included in documents WO/PBC/18/20 and WO/GA/38/2." The last sentence of that paragraph would read: "This process is without prejudice to the right of Member States to present proposals."

177. The Delegation of South Africa reiterated the point it had raised the other day, i.e., that it was uncomfortable with limiting the scope of discussion to only identifying issues of common interest. Therefore, it proposed alternative language. After the words "document WO/GA/38/2", the sentence would read as follows: 'The outcome of this process is intended to discuss proposals on WIPO governance, and recommend them to the next PBC in a structured format.' The Delegation wished to delete references to the word "identify" i.e., "identify by consensus issues of common interest, and possible improvements relating to WIPO governance system."

178. The Delegation of the United States of America, speaking on behalf of Group B, pointed out that the text had been the subject of lengthy discussions. It felt very strongly about keeping in the phrase "identify by consensus issues of common interest and possible improvements relating to WIPO governance system".

179. The Delegation of Hungary supported the last statement made by Group B. It was very important to keep "identify by consensus issues of common interest", because it wanted to progress these discussions, and did not want members to repeat themselves in their proposals.

It underlined that it wished to work together on matters that were of common interest to all Member States. It asked the Delegation of South Africa to join the consensus that had been developed and not to “bump” the process.

180. The Delegation of Egypt expressed its support for the proposal as presented by the Chair. It recalled that the proposal had been developed after lengthy, complex and difficult discussions, consultations and negotiations. It requested all delegations to join consensus and support the decision text read out by the Chair without further amendments.

181. The Delegation of Oman supported the position of the Delegation of South Africa and its proposal. It thought that an informal process should not have limitations. If proposals were discussed in common, this would lead to a structured position and would be more productive.

182. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, stated that it was a little reluctant to speak on behalf of the entire Asian Group as there were different opinions within the Group on this matter. Nevertheless, it thought that the Asian Group could not support this part of the proposal. Speaking in its national capacity, the Delegation shared the views expressed by South Africa, i.e., that making reference to the “common interest” ruled out the issues that could not be identified as a common interest. Therefore, the Delegation preferred that the issue of WIPO governance be discussed in its entirety at the next PBC. It feared that there were issues of great importance that affected the system, and which did not fall within the limit of the scope of common concerns. By using this selective approach they would be made to live in the shadow of far less important issues.

183. The Delegation of Zimbabwe appreciated the efforts that culminated in the proposal. The Delegation’s sentiments had further amplified its concerns regarding the end product of the informal consultations. It appeared that Member States were in a situation where a number of delegations, when they consult informally, thought that the end result of such consultations should be accepted without any changes because they had put in an enormous effort. That did not mean that all delegations would simply endorse this end product only because it had been subject to long discussions and long nights. For the same reason, the Delegation doubted that Member States would simply endorse the end product of informal consultations in the PBC. Based on the comments made so far, the Delegation was reluctant to endorse an informal consultation because it did not want to be forced to endorse it. It was willing to support the suggestion made by the Delegation of South Africa, making the basis of consultations very broad. It did not wish a limited scope discussion on the issue of governance.

184. The Delegation of Brazil, speaking in its national capacity, stated that it really wished to have an informal open-ended consultation to discuss governance issues. It thought that a number of issues could be discussed and improved for the benefit of Member States. It supported a process that would lead to a balanced discussion in an informal open-ended format.

185. The Chair proposed a compromise text as follows: “The outcome of this process is intended to discuss proposals on WIPO governance, issues of common interest and possible improvements relating to WIPO governance system with a view to reaching consensus.”

186. The Delegation of Switzerland could not clearly understand what the Chair was trying to attain with the just-proposed text. The purpose was to prepare the work for the next PBC, so consensus to what end? If members were going to try and identify the subjects where they could only work together, then they would be repeating themselves. The Delegation underlined that delegations had worked long and hard on this text. Concessions had been made by all sides. The Delegation thought that Member States should adopt what had been agreed, and added that trying to work on this consensus was what they really ought to be doing at present.

187. The Delegation of South Africa reminded all delegations that South Africa had stated from the very start that there were caveats that it was not going to endorse. These caveats were included in this text. The Delegation had previously explained why it could not approve it. It did not want to go into the history of the Organization, because all Member States knew what language they used when they wanted to achieve certain objectives. The Delegation would be satisfied with the text containing changes it had proposed, but, in the absence of any agreement, the Delegation could only endorse paragraphs 1 and 3, without paragraph 2.

188. Regarding his proposed text, the Chair explained that inclusion of “with a view to reaching consensus” reflected the purpose for which parties sit down to discuss issues in any process of consultation, formal or informal, bilateral or multi-lateral. The important part of the paragraph was that a recommendation to the PBC would be made. Without consensus, the Chair compared the text to a cart full of apples, pears and bananas. The Chair added that he would strongly plead that Switzerland and South Africa accept the phrasing. Commenting on the proposal by South Africa to delete paragraph 2, the Chair said that such deletion would deny Member States the discussion that they had been saying they needed i.e., a structured discussion in the PBC.

189. The Delegation of Egypt commented that deleting paragraph 2 meant that there would be no intersessional work and thus Members States would be losing time. As highlighted by the Delegation of Pakistan, inaction was not acceptable. The Delegation called on Member States not to be silent on the important issue of governance for a whole nine months (until the next PBC), without even trying to engage in discussion. It believed that all related issues should be on the table and that Member States needed to work together to reach best consensus on them. At the same time, in case that there was no agreement on them, each Member State had the right to advance its own proposal. The Delegation reminded the membership that the African Group had submitted a proposal on the issue of governance and that it was in the collective interest to pursue this proposal and not to leave the session without plans for further discussion for a period of nine months.

190. The Chair asked whether delegations would consent to the proposal of the Chair, i.e., ‘with a view to reaching consensus’?”

191. South Africa did not consent.

192. The Delegation of the United States of America posed a question to the Delegation of South Africa. It explained that, in its understanding, Member States wanted to avoid the Chair’s perfect example of the apple cart kind of discussion. In order to do that, Member States would have to have a discussion that was geared in the direction of consensus. The Delegation agreed, in certain ways, with South Africa’s train of thought to delete paragraph 2. Member States were going into a general discussion of apples, pears, and bananas and that was what the Delegation wanted to avoid. The Delegation wondered as to the objective of having these informal consultations.

193. In response to the question, the Delegation of South Africa reminded the Delegation of the United States that the proposal initially made by it was to have at least a day dedicated to discussing this issue. In putting forward that proposal, the Delegation had stated the reason for structuring discussions. It recalled that, at the time, emphasis was being put on one issue, which was defunct right now, i.e., creation of an executive board. The United States of America had objected to a counterproposal, the proposal from the Chair, to have a working group; it had not seen any reason for intersessional work. Therefore, the Delegation was surprised that, at present, the United States was comfortable with intersessional work. The Delegation added that other delegations supported the languages proposed by it: Iran, Oman and Zimbabwe had expressed the same thoughts. It was not proper to single out South Africa as if it was the only delegation uncomfortable with the text. The Delegation added that it did not wish to prejudge

the outcome of any consultation but wished for structured work. It did not consider its proposal counterproductive but rather general, the one which would allow inclusion of any subject.

194. The Chair inquired whether the Delegation of South Africa would be satisfied with adding “with the appropriate time” to paragraph 3 (keeping governance on the agenda of the 20th PBC session) and added that the appropriate time could mean two days.

195. The Delegation of France commented that none of its concerns regarding governance, or what would be useful for the Organization, were addressed in either the present text, the original text, or the amended text. Nevertheless, the Delegation decided not to block the discussions, and had tried, in Group B, to find a real compromise and accept the proposals. Then, in the last version of the text, it had tried to accommodate some details which were not exactly the reflection of its national position. The first concern was: what point was there to having regional coordination if the representatives of the regions were not actually representing anyone; they were not validated. The second question was: where were Member States heading if no one yielded? The Delegation reminded that the proposal was a compromise and if there were states which, whatever happened, would not give way at all, then, of course, the PBC session would be a very long one indeed.

196. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, clarified its earlier statement. The Asian Group did not object to the informal consultation process but objected to the reference to “issues of common interest” to be discussed within this process. As stated earlier, there were differing opinions within the Group. It meant that the Group had discussed this issue with the representatives of other Groups but some individual members of the Group had objected. Therefore, the Asian Group could not support the proposal.

197. The Chair requested the Delegation to specify which proposal the Asian Group could not support.

198. The Delegation of Iran (Islamic Republic of) responded that it was the first proposal, not the Chair’s proposal. It recalled that there were three proposals: two made by South Africa, and one by the Chair. The Delegation added that it did not have any problems with the Chair’s proposal.

199. The Delegation of the United States of America, reacting to what the Delegation of Zimbabwe had stated, was under the impression that the role of Regional Coordinators was being called into question. The Delegation said that Coordinators did a lot of work on behalf of their Groups and felt that they had a mandate. Coordinators went in and negotiated, sometimes until late. When they came back out, they heard all of these reactions, which was a little troubling at times. Nonetheless, the Delegation was willing to accept paragraph 2 or the entire text on this agenda item. It was a reflection of the long negotiations, which had started from two extreme positions: an informal discussion on one hand and the more formal working group on the other hand. The text was reflection of a compromise. The Delegation stated that it could accept the Chair’s proposal, as it still encompassed the notion of reaching a decision by consensus. That was the aim of the discussion. Then, the Delegation could also accept removing paragraph 2 altogether.

200. The Delegation of Zimbabwe clarified that, in its first opening remarks, it had thanked for the effort of all those involved in producing the document. The Delegation added that Member States were probably missing the whole point of the discussion, which was to have an effective governance system in WIPO. The Delegation inquired what Member States would do if an important element contributing towards that objective was considered not to be garnering consensus. It suspected that it would be removed automatically. The Delegation did not understand how Member States could clamor about enhancing the governance of the Organization and, at the same time, do a disfavor to the same Organization. It was a

contradiction. It was either a choice between a holistic approach or a piecemeal approach. Governance issues were not something that could be picked like a cherry: “I want this one, I do not want that one.” The Delegation suggested introducing reference to a structured discussion in paragraph 3 so that it would capture what all members agreed on: “the next PBC should have a structured discussion on WIPO governance issue.” Then, paragraph 2 would not be needed. Having heard the comments of the Delegation of France, the Delegation felt that the main difficulty was that some delegations needed to give up a little. It questioned whether they were prepared to do that: they had been very consistent and persistent in their position in insisting to retain the elements such as consensus or “issues of common interest”. The Delegation was under the impression that such insistence was still present. That was causing discomfort for some members. The Delegation stressed its appreciation for the efforts by the Regional Coordinators. However, it also expected that when one had an informal consultation, one had the right to agree or disagree with its outcome, and this expectation was not shared by others.

201. The Chair announced the proposal by the Delegation of Zimbabwe i.e., paragraph 2 would stop at reference to document WO/GA/38/2 and would say: “having reviewed the issue of governance, the PBC decided to continue its consideration of this issue, through an informal open-ended consultation led by Chair. This process will review Member States' proposals on governance starting from existing members' submissions, included but not limited to documents WO/PBC/18.” The rest of the paragraph would be deleted. Paragraph 3 would say: “decided that the issue of WIPO governance would be an agenda item for the 20th session of the PBC with a structured format, included, but not limited to (i), (ii), (iii)”. The Chair felt that this new proposal responded to the desire of some delegations to keep the process informal while providing for a structured discussion in the PBC.

202. The Delegation of Hungary, commenting on the last proposal, stated that the original document presented at the beginning was a frank compromise. If some elements were taken out of it, the text would not be something that had been negotiated. If the part of the text where members had tried to ensure that it was going to be an effective process was taken out, then the text was not going to work for some of the members, and in particular for the Delegation. The Delegation suggested that, perhaps, members conclude that they gave it a try and that some delegations were not interested much in having informal consultations. Of course, Member States could continue discussions in the next PBC, and, perhaps, at that time something would be achieved. The Delegation thought that Member States had to come to the conclusion that they were not going to be able to agree and there was not enough time to start renegotiating the entire text. Either they accepted the text, with the understanding that they could try to negotiate, or the matter would simply be taken up at the next PBC.

203. The Delegation of Zimbabwe stated that this was precisely the reason why sometimes it was not comfortable with the statements made by certain delegations. The Delegation encouraged informal consultations; dialogue was the purpose of diplomacy. However, it should not be expected that all delegations would endorse everything that had emanated from those informal consultations. That was the principle. The Delegation was surprised that yet again members were reminded that something was a result of efforts being put forth by delegations. The effort was appreciated. The Delegation invited members to visualize the informal consultations and the document they would produce for submission to the PBC. It was certain that not a comma was going to be changed in it; members would not be able to change even a comma. The Delegation reminded the membership that the objective was to have an effective governance system in WIPO. Nobody objected to that. However, Member States seemed to be dodging “taking the bull by the horns”. The Delegation said it was ready to withdraw its proposal, which meant that there would be no paragraph 2 and members could just see what would happen in the next session of the PBC. The Delegation added that it was very unfortunate that Member States were sometimes forced to agree to something only because delegates would have met to consider it, which was appreciated, but members were not supposed to be forced to agree to it.

204. The Delegation of Australia stated that it could support any of the three proposals on the table. It also thanked the Delegation of Zimbabwe for its proposal, but did not think that it took Member States forward. The compromise proposal that had been circulated was a true compromise. It had been the subject of extensive discussions. The Chair's proposal, while constructive, was a compromise between the compromise and the position of a small number of Member States. Having said that, it was a constructive proposal and the Delegation could support it. The Delegation thought it unfortunate that the membership seemed to be heading towards a third option, which was to delete paragraph 2. Although the Delegation was not particularly looking forward to the prospects of extra meetings over the next twelve months in the incredibly busy meeting schedule, it truly thought that the informal consultations process had some potential to identify some areas of common interest, and thus really make improvements to the way WIPO operated. It was unfortunate that Member States found themselves in the present position.

205. The Chair summarized objections to the proposals: to the proposal of the Chair, South Africa and Zimbabwe. On the second proposal (to delete all of paragraph 2), no objections. The Chair declared the text adopted.

206. Program and Budget Committee:

- (i) took note of the report of the Chair of the General Assembly, the IAOC report and Member States' remarks expressed on it (document WO/PBC/19/26); and
- (ii) decided that the issue of WIPO governance would be an agenda item for the 20th session of the PBC.

ITEM 6: PRESENTATION BY THE DIRECTOR OF THE INTERNAL AUDIT AND OVERSIGHT DIVISION (IAOD)

207. The Chair invited the Director of the Internal Audit and Oversight Division (IAOD) to proceed with his presentation.

208. The Director, IAOD recalled that his presentation was being made under the present terms of the Internal Oversight Charter. Under the revised Charter that Member States would examine during the session, a written report would be presented. At present, a written report was provided only to the Assemblies (document WO/GA/41/9.) The principle points of this document were the IAOD procedures, the results of the audit, evaluation and investigations work, the follow-up to the IAOD recommendations or other activities and the IAOD resources. As far as procedures were concerned. The IAOD Director stressed the independence of the IAOD. Independence which Member States had ensured and was working out satisfactorily. The IAOD independently decided on its programming for the year and also drew up, in a completely independent way, the individual planning of its work. It took into account, of course, any comments made by the subjects of the oversight work, and, at the end of this process, the IAOD quite independently drew up reports on its observations. Some persons did not seem to be quite clear about the IAOD independence because the IAOD was internal to the Organization and wondered how it was possible. It was quite possible because the way in which the IAOD had organized itself made it possible to have an independent individual planning of its work and the preparation of reports, which were completely independent. Independent did not mean that IAOD was not accountable. Accountable, in the sense that the IAOD reported to the General Assembly, the Director-General and other supervisory bodies. It was under the control of these bodies that the IAOD work was organized.

The second point raised by the IAOD Director was the results of the work in the audit, evaluation and investigations. As far as the Validation work was concerned, the subject would come up during the discussion of the Program performance Report.

The IAOD had produced five audit reports, three evaluation reports and various investigation reports. These were either initial preliminary evaluation reports on cases to decide if there was ground for investigation or full-fledge investigation reports. The main conclusions appeared in document WO/GA/41/9. Without going into detail, the IAOD Director wished to mention the importance of the management of programs concerned and for the areas which had been reviewed (review of WIPO activities in one country, two Development Agenda projects – start-up Academies and TISCs- and the validation of the PPR (PPR), IAOD could identify good practices and make some recommendations for improvement in program and project management. WIPO's support was relevant to the need of its beneficiaries and effective in achieving the expected results. WIPO could make more use of specific, measurable, achievable, relevant and time-bound (SMART) performance and outcome indicators to measure the effects of projects including at the level of beneficiaries.

As far as the management of Human Resources was concerned, the audit had looked into the possibilities of strengthening the alignment of the practices in WIPO to best practices within the United Nations. The implementation of these recommendations would make it possible for WIPO to have well managed and well trained staff, working under a solid regulatory framework. An official strategy/policy for management of Human Resources bringing it in line with the strategic goals and other projects of WIPO had to be elaborated in order to ensure that human resources within WIPO could carry out the mandate of the Organization. Well defined policies concerning management of talents and posts would make it possible for WIPO to retain skills within the Organizations and make sure that the expertise of the staff corresponded better to the Organization's needs. This would also contribute to reducing consequences resulting from recruitment of a large number of temporary staff. The examination of statistics of the internal administration system for justice and the Administrative Tribunal of the International Labour Organization (ILO) showed there was a need for an analysis of root-cause effects concerning all internal cases of litigation and decisions of the ILO tribunal. Such an analysis would improve the system of internal justice. The IAOD Director further stated that the estimated cost of absenteeism had gone from 20 million Swiss francs for the biennium 2008/09 to 22 million Swiss francs for the 2010/11. The technical controls of the flexi time system needed improvement. Keeping the necessary documentation concerning people leaving the service would make it possible to strengthen the framework for the control of human resources and to improve the efficiency of the management.

Concerning investigations, the IAOD Director stated that 18 new files had been received and opened during the period under consideration as compared with 14 files during the previous period.

On a separate note, the IAOD Director wished to indicate that one of the main advantages of WIPO internal oversight was to carry out complete follow-up of the way in which the IAOD recommendations were being implemented.

As of the date of the annual report, 140 recommendations were considered open which meant they were under implementation and amongst these 90 that addressed very high-risk (six) and high-risk (84) issues. The six very high risk recommendations related primarily to information technology issues identified in audits of Flexitime System and Employee Access Controls to WIPO's Premises (2011) and Verification of IAOD's Information Technology and Security Related Audit Recommendations (2011). Nineteen (or 22 per cent) of the high risk recommendations had been open for more than two years.

As far as resources were concerned, the IAOD Director remarked that staffing issues had challenged the proper and effective introduction of internal oversight at WIPO for a considerable

period of time. IAOD now had 11 staff. While the IAOD budget and staff represented only 1.6 per cent and 0.9 per cent of WIPO budget and staff, this put WIPO ostensibly in the average of other UN organizations. The major concern should be to move from a structure with short-term consultants serving on the workforce to a structure with fixed term posts. This would help move the IAOD closer to the UN norms for internal oversight activities. This would make it easier for the IAOD to effectively fulfill its mandate.

209. The Chair opened the floor for comments.

210. The Delegation of Germany recalled that it was agreed to discuss the HR audit report under this agenda item.

211. The Delegation of France wished to make a general comment which it consider quite important. It said that with the appointment of the new IAOD Director, Member States had a key element in the reform process, in the improvement of WIPO governance and the key policies that were being put in place such as internal oversight. The Delegation welcomed these developments. It also welcomed the oral presentation by the IAOD Director. It added that when looking at the PPR, Member States would see some very clear results to the types of things that the Delegation of France and other Member States had been asking for in terms of a new approach to internal oversight. The Delegation welcomed this change, stressing that it was important to say when things were going well. What the Delegation also found interesting in the report was better identification of problems. Problems needed to be clearly understood before they could be resolved satisfactorily. It emphasized that the issue of internal oversight was one of the key pillars of the reform of the Organization. It invited all members to examine the PPR very carefully.

212. The Delegation of Germany wished to mention that, in the first PBC briefing before the summer break, the issue of the IAOD report on the HR management had been raised. The IAOC had also recommended that Member States read the report, as there were some findings of interest to all Member States. The Delegation then emphasized that the first annual report of the HR deserved its name. In the past it had been a collection of separate issues whereas at present it was concentrated in a meaningful way. This report had been initially sought for the CoCo, but WIPO had been convinced that since two-thirds of the budget was spent on HR, the report also had to be presented in the PBC. The Delegation remarked that there were two reports, which should be separated. On the one hand there was the audit report on HR management. Under the old policy this report could be read at the office of the Director of IAOD and this had lead to the fact that, although the IAOC recommended reading it, only seven countries had consulted the document. These seven countries had afterwards, had shared their assessments and came up with the issues related to the report which seemed to be of importance, especially under the budgetary implications e.g. recruitment and short termers, implementation of the performance appraisal system, the issue of absenteeism and sick days, the issue of training and the issue of geographical distribution. The problem was that the report could only be consulted at the IAOD office and, therefore, it was not possible to have it in hard copy to be able to cite from it. The Delegation proposed that the Director of the IAOD explain to the majority of delegations who had not yet read the report what the findings of the report were, especially since 20 recommendations had been made in it, which was a high number.

213. The Chair invited the Secretariat (Director, HRDM) to comment.

214. The Secretariat (the HRMD Director) explained that she had started in WIPO on August 1, 2012. Previously, for more than five years, she had been the HR Director with a very large UN organization in the Middle East. This was her seventh posting, and the fifth UN organization that she worked in. When the HRMD Director started in WIPO, she found a long list of HR issues that needed to be addressed; and the list was very well fleshed out. The HRMD Director had examined the audit report (which was welcomed and which gave a very specific and good guidance) but also other sources: the reports of the CoCo, the JIU and the

Ombudsman report. The issues addressed therein were fairly consistent. Therefore, it was quite clear what needed to be done. The first priority that the HRMD was tackling was the submission to the CoCo dealing with the Staff Regulation and Staff Rules reform. Together with that, hopefully, a number of issues that had been raised would be addressed, including the contractual problems of the long-term short-term contracts and the issues such as classification. It was announced that the HRMD Director would do an informal briefing for Member States on September 19, 2012 and hoped that many delegations would come with their questions, to which she hoped to provide the answers. The HRMD Director was also looking forward to the session on HR in the CoCo, with a view to getting Member States' approval of the new Staff Regulations and Staff Rules. Afterwards, the Secretariat would have to implement the measures that would hopefully have been approved, including the transition of regularizing short-term staff and putting into place a new policy on classification, dealing with short-term recruitment and dealing with different contractual modalities. For the coming year, there was a long list of topics to tackle. In the HRMD Director's view, the most important one was to get an HR strategy in place, and from there the Secretariat would follow addressing a lot of the issues that had been raised in the PBC. All this had to be done not only by the HR, but in close consultation with the staff, the staff representatives, the Member States, and the managers of WIPO. The HRMD Director was looking forward to leading her team towards these important tasks and keeping Member States up to date.

215. The Chair invited the IAOD Director to summarize the report and the recommendations on HR management.

216. The Director, IAOD thanked the Delegation who visited his office to get an insight in the mentioned report. He added that, as mentioned in the oral presentation of the summary annual report for IAOD, it was not the only audit report prepared by IAOD but it was indeed a report to which the IAOC wanted to draw attention to. The IAOD Director explained that this was easily understandable because human resources represented more than two-thirds of the expenditure of the Organization. So the HR deserved special attention and this also gave the report a certain importance. The IAOD Director believed that the work done by the Internal Audit Section had been remarkable. The audit had reviewed all steps and stages of the HR process from the definition of the strategy of HR, the Staff Regulations, the management of the morale and well-being of the staff to separation of the staff. WIPO must have a well-managed and appropriately skilled staff, working within a robust and enabling regulatory framework, supported by clear policies, efficient procedures and modern systems. In this regard, a formal HR Management Strategy, fully aligned with WIPO's strategic goals, objectives and plans, should be developed expeditiously to ensure that human resources at WIPO serve the Organization to achieve its mandate. Implementation of the HR Strategy should be supported by revised SRR and HR policy and procedures covering all major HR processes, including, but not limited to, recruitment, reclassification, career development, internal justice, succession planning, and staff performance. When one looked at recruitment, as an illustration of what had just been said, it was necessary to better align recruitment with requirements of an organization. This presupposed a clear-cut vision of the needs of the Organization, as well as a vision at a general level from the view of the organization itself. This of course implied that each of the divisions and programs define their needs which was an ongoing process and which would transform their recruitment in a more fluent way. The definition of requirements was not perfect and there were difficulties in talking about recruitment and definition of post candidates but in all sectors improvements were possible. By better defining the policies, the classification of posts and the contractual nature of the posts, the Organization would be able to find a solution. The Director, IAOD also referred to the internal justice procedures, e.g. appealing decisions, reviewing the appeals against the administrative procedures and the administrative tribunal of the International Labor Organization (ILO). He said that the review of internal justice statistics and the ILO Administrative Tribunal (ILOAT) decisions indicated the need for undertaking a cause-effect analysis of all internal litigation cases and ILOAT decisions with a view to improving the internal justice system. HR policy and procedures needed to be improved in recruitment, reclassification, career development as well as strengthening the internal justice system in

dealing with harassment, defamation cases and resolution of disagreements on performance evaluation. It would be also necessary to pinpoint and settle the underlying causes of absenteeism. The Director, IAOD also stressed that there were many recommendations which had been provided in the report. These recommendations were drawn up at a certain point of time, at a time when the report was drawn up, in other words, in May this year and for each and every one of the audit reports, both assessment reports and inquiry it was asked first that the managers adopt the plan for the implementation of recommendations. The management of HR had adopted a plan for the implementations of recommendations and it was recognized that these recommendations did not remain dead letter. The Staff Regulations were being revised and a version would be conveyed to the CoCo. The strategy of HR was also HR policy, and should also be defined, conveyed, as well as transmitted. This corresponded to the main observations found in the report. As the audit report was a photograph at a certain point in time, the recommendations would continue be followed closely and the IAOC had mentioned that it wished to receive a specific report on this by November. These recommendations would indeed be followed closely by IAOD.

217. The Chair noted that the IAOD Director mentioned a specific report coming in November and asked for clarification.

218. The IAOD Director replied that on the agenda of every IAOC meeting, there is an item on the follow-up of the implementation of the recommendations. The IAOC also expressed a desire to have a special stock-taking of the follow-up of the recommendations talking about HR, and to discuss this with the HR management.

219. The Delegation of France stated that first of all it recognized that human resources set up a general framework which was desired and requested. The Delegation also pointed out that this was rather late, if one was looking at it from the outside. There had been an annual report which contained a lot of interesting elements of implementation. It was very important to have this first report for the CoCo and it was stated that, as a minimum, it would be an item of information for the PBC. The Delegation was not able to consult the report at the IAOD Director's office but would consult it with pleasure once online consultation would be available. Secondly, the Delegation drew the attention to the savings measures and that there was much to be done about human resources at this juncture. If one took a look at the trainees and the cost of outsourcing work (especially for translation), one was worried as this revealed the size of the documents submitted to and for translation. The Delegations added that it was not a mistake of the language policy. It was a mistake made for a whole set of factors. Documents were too voluminous and too heavy. If everything was outsourced, this might mean that it was a complete failure. The object of outsourcing was to work better, and for things to be less expensive, and so it could be considered a transitory problem. The Delegation pointed out its concerns on mastering the expenditure, in view of a number of posts filled and that the vacancy rate which it said was higher than the one used to calculate the budget. The Delegation admonished to carefulness of reducing this vacancy rate and the increasing of costs. The Delegation said that it would have a watchful eye on this topic due to difficulties in being able to finance international organizations. Last point (referred to by the Delegation of Germany), the financing of training, specifically, on the topic of governance, which concerned all the framework policies and the training for new tools, the appropriation of IPSAS, as well as mastering it in a daily life. The Delegation drew the attention to the fact that if reforms were carried out, then behind all this, there were colleagues who found it difficult to use the software and the new tools and this evolved a growing frustration for the staff. Therefore focused targeted training on new tools and mastery of the ongoing reforms, should be a priority item.

220. The Delegation of Spain thanked the IAOD Director for his presentation and congratulated the new director of HR. Spain had been one of the countries who consulted the report which the Delegation recognized as very well drawn up and very interesting, concerning not only issues of staff but, as Germany mentioned, also key issues of budget of the Organization. Therefore, the Delegation supported the message of the importance of these issues. The

Delegation strongly believed that one of the most important steps was to improve HR procedures in different areas, keeping in mind that this was an ongoing process, as pointed out in the report. The Delegation insisted that this progress would be supervised, and that Member States were able to see how progress was made in this field. It was suggested that perhaps this overall report, which the Secretariat had drawn up for the first time, be submitted to the CoCo so that it could also be seen that progress had been made in these essential fields. Another important aspect was to consider that the PBC should, in some way, be able to intervene in this debate, because like France, Spain was also going through a highly delicate economic situation and in the coming years it would be difficult for the country to be able to comply with its obligations. Therefore, the Delegation would have to pay special attention and be very careful with the costs and the financing of the international organizations. Regarding the more specific issues of the report, the Delegation raised awareness on the hiring, contracting, and also the reclassification of posts, and how it was pointed out, in the report, that 80 per cent of the reclassification of posts had been accepted. The Delegation inquired about this specific point and pointed out the need to be given a follow-up, and that the Member States participate, intervene and be kept updated on how these essential issues evolved.

221. The Delegation of Germany suggested linking and merging the two reports. The Delegation referred to the budgetary issues concerning sick days. It pointed out that 19.8 million Swiss francs was a lot of money and that 1 million was paid for the work not done. Referring to the Statement of the French Delegation on the vacancy rate, as far as the Delegation noticed, the calculation in the staff, was 8 per cent vacancy. 8 per cent vacancy would mean 200 staff. At the end of 2011 this was 242. So 142 persons were not there, and the money was put aside. The money was spent on somebody else: on consultants, on short-termers etc. But there was no transparency really what happened with this money. It was quite a lot of money, for the wage of 142 people. Maybe the Secretariat could address this issue, because there were big budgetary implications - double digit millions.

222. The Delegation of Pakistan welcomed and wished the new Director of the HR department all the best. The Delegation assured of its trust in the new Director being able to take the work forward in this very important area. The Delegation requested clarifications on how the report would be presented to the PBC and whether members were already agreeing to that. The Delegation stated that it supported that and added that since the money had been spent on HR it was importance that the PBC also looked at these issues. However, the delegation was not clear how members were going to proceed in this regard.

223. The IOAD Director thanked the delegations for their questions, which demonstrated their interest in this issue, the HR management. Regarding the comments made by the Delegation, of France, the Director of IAOD took note of the subjects that could be delved into, and which would be within the interest of the Committee, particularly talking about savings, cost of outsourcing, use of consultants and subcontracts. The topic of the vacancy rate was considered a risk topic and was something to be looked at in the framework of reviewing the procedures, and budgetary hypotheses. The issue of training was also an issue to be looked into further. It was the first general audit report, making very general remarks on all stages of the HR management process. The Director of IAOD noticed that there were areas which could be delved into further. Referring to the topic of reclassification, the Director of IAOD mentioned that these issues were a good illustration of the problems observed and that this was due to the lack of a clear-cut policy on reclassification. Because throughout the years, reclassification led to a higher grade level, there were expectations that the holder of the post reclassified was entitled automatically to this reclassified post; although if there had been a reclassification, it meant that there was a redefinition and adjustment of functions so the post-holder had no automatic rights to be reclassified at a higher level. This was why there was a recommendation that the Organization endow itself with a more clear-cut, more precise policy, harmonizing the practices regarding reclassification. Therefore, the IAOD would follow up on the implementation of this procedure. Concerning the costs (mentioned in the oral presentation) linked to absenteeism, it was not nuclear science. The IAOD took the daily rate, numbers of days

absent, justified or unjustified, certified or not, and multiplied by the daily cost of absence and this was how the figure of 22 million Swiss francs had been reached, which was an important figure *per se* for the budget of the Organization. The recommendation given to the Secretariat was to review what have been the underlying reasons for this absenteeism, whether it was due to reasons of sickness or was lined to other reasons. The number of average days of absenteeism had increased.

224. The Chair thanked for the comments given and pointed out that the absenteeism of staff was an important point and that it was a point worth looking at in terms of money and because the staff was located in Geneva and not in certain countries where people get sick very often.

225. The Controller responded to the delegations' questions. To answer the concerns expressed by the Delegations of Spain and France - yes, the Secretariat was aware of the important budgetary repercussions of the HR issues. The Secretariat was watchful and we did share the Delegations' concerns. To answer more specifically, to provide complimentary information to Germany on the issue of vacant posts), the Controller said that the vacancy rate that was used was calculated on real posts, not the total number of employees because in 2010/11 there was still an important amount of short-termers. Vacancy rate of 7 or 8 percent, which was used for the budget, was a vacancy rate which applied to 900 posts, which represented 72 vacant posts. Of course, it was clear that when preparing the budget, if the Secretariat considered that these posts were going to be vacant, then they were not budgeted. To put it in other words, one did not pay for posts which did not exist. The Controller wished to reassure Member States about that point: the Secretariat took into account the vacancy rate. Coming back to the comment made by the Delegation of France, it is true that the Organization had a rather high historic vacancy rate. Even when the Secretariat made the proposal for voluntary separation, these vacancy rates still remained high. In the coming years, the vacancy rate was going to be substantially reduced. As Member States know, there were several policies in this respect, e.g. policy to regularize short-termers, which meant that the vacancy rate was going down. The Secretariat would take account of this in the 2014/15 budget. Using vacancy lower vacancy rates meant that, no doubt, it was going to increase the amount of staff costs – it was a matter of simple arithmetics. The Controller wished to point this out so things were crystal clear.

226. The Delegation of Germany hoped that there would be a longer discussion on the report in the CoCo. The Delegation then referred to the other report. A group of countries had talked to WIPO, and at the end, the new HR report was initiated, and its first draft had been accepted. Furthermore it had been agreed that no additional resources should be spent and that it should just compile all the HR information available in various documents into one, and have in the future as one HR report of WIPO. The report was out and was available on the CoCo website but not on the PBC's although it had budgetary implications. The Delegation suggested that in the future there should be just one HR Report in WIPO and which should merge all the other reports into one document including the IAOD Report. The Delegation disapproved of the IAOC position on that. The Delegation said that, last year, there had been a report on the HR by the Swiss auditor and there was the issue of the long vacation time and overtime. WIPO had the policy, but when one followed the Swiss auditor, WIPO did not always follow the policy. There was also money involved, approximately 2 million Swiss francs. The IAOD had not pick it up. However, this was an issue to be included in the next report so that there would be a follow-up. The process would be started. The Delegation wished for a comprehensive report, with all aspects, realizing that it would take three to five years to create it.

227. The IAOD Director replied that the annual report from the HR division covered all areas of HR. The report from the Secretariat on HR was an annual report, whereas the audit report on HR was a snapshot over a number of years of certain issues. The IAOD would go into greater depth on certain points in the future, but could not promise the Committee an annual HR report. The Director, IAOD suggested adding a chapter to the Secretariat's report on HR that would show the way in which the recommendations had been implemented by every part of the house,

be it in the IAOD or the HR division. Then, over the years, matters that were of the greatest importance to the Member States could be considered for audit. It was pointed out that HR should be given the time to put out their thoughts and ideas.

228. The Delegation of Germany clarified that it was not expecting the IAOD to do an audit on HR every year. Nevertheless the issues raised on this topic, e.g. more information on statistics, training issues and the policy should be added to such report, especially the information on what amount of money was spent and who benefitted from it. The Delegation pointed out the importance of providing statistics to gain a better understanding on activities and challenges in WIPO.

229. The Chair pointed out that the Delegations of Germany, France and Pakistan raised an important point: delegations wished that the HR report that was submitted to the CoCo also be submitted to the PBC. Therefore, this clause had to be written into the language of the decision. The Chair suggested: "the PBC is invited to take note of the contents of the presentation of the Director of the IAOD. The PBC further requests that the HR annual report also be presented to the autumn session of the PBC for its consideration."

230. The Program and Budget Committee (PBC) took note of the contents of this presentation. The PBC further requested that the Human Resources annual report to the Coordination Committee be also presented in the future to the autumn session of the PBC for its consideration.

ITEM 7: REPORTS BY THE EXTERNAL AUDITOR

ITEM 10: ANNUAL FINANCIAL STATEMENTS 2011; STATUS OF THE PAYMENT OF CONTRIBUTIONS AS AT JUNE 30, 2012

231. Items 7 and 10 were discussed together.

232. Discussions for item 7 were based on documents, WO/PBC/19/17, WO/PBC/19/18 and WO/PBC/19/19 and for item 10 on documents WO/PBC/19/4, WO/PBC/19/6, WO/PBC/19/6 Corr. and WO/PBC/19/7.

233. The Chair invited Mr. Monnot, the External Auditor, to comment on his reports. The External Auditor responded as follows:

"Thank you very much, Sir. Mr. Chairman, Ladies and Gentlemen, Delegates, speaking as the representative of the auditor, I would like to thank you for the opportunity to present to you a record of our activities as the External Auditor of WIPO. I would also like to convey to you the greetings of Mr. Kurt Grüter, who is the auditor for the WIPO accounts, or rather I should say the former auditor, as of 30 June last. He would have liked very much to have been present, but unfortunately, he had to remain in Berne, given his obligations to the Swiss Parliament. However, Mr. Grüter has asked me to say that it will be a great pleasure for him to meet with you again during the assembly. It is therefore my honor and my duty to represent him here today.

"As I have just mentioned, this is the final statement of the Swiss auditor. After a century of verification of the WIPO financial statements, this extensive period of cooperation between our two institutions is one that I estimate as having covered 119 years, without being a hundred per cent sure because I was not there to check. However, I believe that this collaboration began at the end of the 19th century, when the Swiss auditors of the federal office of accounting, which was established in 1877 (therefore, a young institution, made up of young and dynamic staff members) verified the accounts of

a new international institution that was set up in Berne in 1893, and in particular, that which was called the International Office for the Protection of Intellectual Property, which brought together the Berne and Paris conventions. Since then, generations of Swiss auditors have followed one upon another, and have verified all of the important events taking place in this organization, such as the move from Berne to Geneva in 1960, the establishment of WIPO in 1967, its transformation into a specialized UN agency in 1974, followed by its physical growth through the construction of a number of structures, and finally, if I may, concluding with the move to the IPSAS standards in 2010.

“Following this very brief historical account, I will not go back here over everything that is implied for external auditors by the use of IPSAS standards. I have already had the opportunity to explain this on a number of occasions to this same committee; nor will I spend much time on what is meant by IPSAS standards, and what they imply for the organization. The Secretariat now has, with Mr. Steve Shepherd, someone who is an outstanding specialist on the IPSAS standards and who can respond fully to any questions in detail from delegates. He made an excellent presentation on this subject to the Audit Committee.

“Let me turn to the three reports plus the financial statements that I am going to cover today. I would like to underline that in order to certify the conformity of the 2011 financial statements of WIPO, the audit team has worked for 150 days between the second half of 2011 and the first half of 2012. In addition, the auditor has devoted a little more than 100 days to three other audits, and there are three audit reports that have resulted from this. These audits are carried out at no charge for WIPO and represent the equivalent under INTOSAI standards of 380,000 Swiss francs in fees, in addition to the per diems for the staff members.

“Before I comment on these different audit reports, and in particular that concerning the financial statements for 2011, I would first like to remind you one final time how I view the respective roles of WIPO Finance Services, and the auditor. WIPO Finance Services are responsible for explaining to all of the interlocutors, be it the Audit Committee or delegates representing Member States, all of the financial budgetary and accounting policies. Finance Services play a crucial role in the communication and explanation of what takes place on the financial level. This is all the more important and all the more difficult when this concerns IPSAS standards. Finance Services also need to explain and to argue convincingly the fact that their actions, in this very complex area, are consistent with the wishes of the decision-makers, that is, you yourselves. And as I mentioned, Finance Services now have sufficient knowledge about IPSAS in order to do this.

“The role of the External Auditor is to verify that the accounting procedures in place lead to a presentation of the financial statements that are consistent with IPSAS standards. It is not therefore his task to explain why the reserves have increased or decreased, or why there has been an allocation, from the reserves to any particular project, or why such and such a table can be used to justify the use of the budget. It is Finance Services who know these details, and who will provide you with the necessary explanations.

“If I may, I would also like to say that what has been the most significant issue since the introduction of the IPSAS standards, and this is just my personal feeling, is that one has the impression that there is now nothing that corresponds or is consistent between budgetary details and those of the financial statements. Now, how is this possible, you might ask? Well, simply because the budget is established under the cash principle, whereas the financial statements are established under the accrual principle. The auditor attests to the fact that the reconciliation between the accrual and the cash basis has been done fully and completely.

“I would like to confirm the fact that for the second year, the financial statements presented to you are consistent with IPSAS standards. As I explained, it is not my role to review with you the 48 pages of the financial statements or to comment upon them. I would emphasize above all that, with the application of IPSAS, the reader of the financial statements now clearly has before them all of the necessary information in order to establish their own view on the financial status of the organization. At the beginning of the statements, the reader is informed about the financial objectives and the main accounting policies of WIPO. Then each financial category is referenced to a detailed explanatory note that justifies the corresponding figure. As the External Auditor, I can confirm to you that the content of all of these notes has been reviewed in detail, and that these notes do indeed conform to the information required under the IPSAS standards. When I tell you that we have examined in detail the contents of these notes and the corresponding figures, this is mentioned in our audit report on the financial statements of 2011, the report referred to as the “long form report”. This report by the Swiss auditors was one that we wished to make more detailed than normal, with 99 paragraphs, in order to facilitate the task of the new auditors coming from India. I will go through this changeover a bit later. However, as is our normal procedure, we have also made an effort to be as concise as possible.

“I am also not going to review the 21 pages of the report but I would like to highlight one or two points with regard to audit technique. It is our great fortune to be very familiar with this organization which facilitates our risk analysis. However, we have had to go into greater depth with our analysis because, with the introduction of the new standards, the risk of error increases of course, and the risk of not having the necessary knowledge is also higher. In addition, there is the risk that the internal audit system may not be perfectly adapted to the new situation, and there is also the problem of the IT treatment of the accounting data. The IT systems must ensure that the accounting and financial information is correct. Another major risk with the application of the principle of accrual accounting concerns the need to ensure that the accounting treatment for income is correct. Any errors in this respect could have a very important impact upon the finances of WIPO.

“I do feel that over the last two years, the audit teams have worked with these risks in mind, and I can assure you that all of these risks have been taken into account in the audit plans and in the way in which those plans have been implemented. The appropriate audits have been carried out, and the result of all of this work appears in our audit reports, and not simply in those which are being submitted to you today. In addition, I would also like to highlight the excellent work that has been done by the WIPO internal audit division under Messrs. Rajaobelina and Efendioglu. While the external auditor was required to focus his audit resources on the main risks associated with the introduction of IPSAS, the internal auditor undertook a number of audit missions, which I will not discuss further, but which demonstrate the complementary nature of the tasks assigned to the internal and external auditors. As our mandate as External Auditor has come to an end, it is my great regret that we will no longer have the opportunity to continue our excellent cooperation with the internal auditors.

“As for the actual content of our audit report, I would mention, as I did last year, the fact that the most important elements on the asset side are the fair value evaluations of current and fixed assets. The evaluation of fixed assets is based on the estimations of external experts in this field, with a component approach which we feel is the best method, and the one which comes closest to the determination of true fair value. As for the liabilities, the largest component of these is employee benefits. These have been assessed by external actuarial experts, and it is our opinion that their hypotheses correspond to the reality of the situation at WIPO. Regarding the risk that WIPO may be required to help support a technical deficit within the UN pension fund, I would like to recall that this risk is currently not accounted for within WIPO and that this is 100 per cent in line

with the IPSAS standards. IPSAS suggests two possibilities: the first is that the pension plan be considered as a defined benefit plan with unrelated employers. Unrelated employers means that the agencies involved have nothing in common; the second possibility considers that the UN pension fund is a defined benefit plan with participating entities under common control, which means that the pensions of the agency employees are all under the central and common control of the New York pension fund. For the first case, one does not need to account for this commitment, whereas for the second, provision is required within the accounts. The UN IPSAS Task Force, as well as the majority of the UN Panel of External Auditors, felt that the first possibility was the one that would apply, whereas the Swiss auditors are part of a minority group that believe the second definition is the one to apply. As a result, the Swiss auditor has included an opinion in his report in respect of the second definition, which he feels needs to be mentioned.

“The income side was one to which we devoted a great deal of time, and in particular, the question of the fees from PCT, in order to determine whether PCT income can be considered as earned, as required under IPSAS.

“I would not wish to conclude my discussion of the 2011 financial statements without thanking one last time all of those staff members of WIPO with whom we have worked, in particular Mr. Philippe Favatier and Mrs. Janice Cook Robbins. I would like to express to them the appreciation of the external auditor and his team members. Neither would I wish to fail to mention the process of changeover to a new team of external auditors. This process is one that was first discussed and then established during the last two meetings of the Technical Group of the UN panel of External Auditors. The directives were validated by the members of the panel in December, 2011. My task, therefore, was to do everything necessary in order to ensure the implementation of these directives. I would also like to emphasize the fact that the main purpose of these directives is to prevent a situation in which the organization has to explain everything to the new external auditor, and particularly the first 118 years! Now, joking aside, may I add that the main goal of the Swiss auditors in this process was to explain in detail the way in which they had interpreted the principal headings within the financial statements in relation to IPSAS standards. The purpose was not to try to influence our successors, nor to try to sell some kind of “Swiss-made” audit label, but rather to have a mutual understanding of the situation. I am very much convinced that this mutual understanding has been achieved between myself and my counterpart, Mr. Rajesh Singh. We have signed a protocol certifying that the transmission of necessary information between auditors was done in accordance with the directives. Let me go a bit further and say that for some parts of our communication and exchanges of information, we went beyond the directives and here I would like to thank all of my colleagues representing the Auditor General of India.

“I now would like to briefly mention the three other audit reports and turn first to the question of the audit on the construction of the new administrative building and the conference hall. This is a topic that has been regularly examined, beginning in 2004 by the External Auditor, as WIPO, at that time, did not have an internal audit department that is as effective as the one it has today. Since 2004, the External Auditor has issued eight reports containing 39 recommendations. As this is a very important subject, and given that the Swiss mandate of the External Auditor ends on 30 June, 2012, I felt it was important to give to Member States for one final time a report of the situation of these projects which are so important for the organization. The last report is dated 22 December 2011, and underlines the fact that the last recommendations have all been implemented. The report also emphasizes that the information on the construction project has been well documented, that the organization of the project is adequate, that the project monitoring has been ensured, and that a risk analysis for the projects has been done in a very professional manner. I only learned last week that OMPI had severed its relationship with the general contractor for the construction of the conference hall. I'm

sure that you will understand that this is an event that took place outside my mandate, and therefore, I will not say anything about this new situation.

“Now, concerning the audit report on the implementation of the AIMS system, our risk analysis showed that such an audit was essential because the correct establishment of parameters for, and the proper implementation of, the IT systems used for accounting and financial management are essential elements for the successful implementation of the IPSAS standards. Without going into all the details, let me say that there was some good preparation within the project with regard to the assessment of the new accounting needs, the project followed good management practices, the management of the change during the project was well-done, and the establishment of parameters was properly carried out in accordance with the IPSAS standards, thanks to a planned and controlled data migration. The main problem was that the users of the software are not sufficiently well-versed in it, and the new procedures and regulations were not totally respected.

“Turning to the question of the UNICC, the auditor wanted to know how WIPO’s participation functioned, and whether the Organization was satisfied with the results. We were able to verify that a framework agreement for the provision of services did exist, and that it set out the tasks and responsibilities of the UNICC and WIPO. The quality of the UNICC services has been regularly verified by external consultants. The only problem noted concerned the accounting of UNICC invoices, but this was not of great significance in terms of the total financial position of the organization.

“I hope, Ladies and Gentlemen, that I have given you a full report of the situation of WIPO as contained in the final reports of the Swiss auditor. Naturally, I am available to provide any additional comments and to respond to any questions that you may have. Thank you very much.”

234. The Chair thanked the External Auditor, particularly as he had presented all of his reports together. In so doing he had covered item 7 and most of item 10 of the agenda. The Chair suggested that the Committee discuss each report in turn. There being no questions concerning the audit report on WIPO’s involvement with UNICC, this document was approved and the Chair turned to the document on the Construction Projects.

235. The Delegation of Germany asked why the audit covered the period ending 30 June 2011 instead of a period finishing at the year end.

236. The External Auditor explained that, towards the end of the year, the audit team had to carry out an intermediate audit of the financial statements and that this took up all available resources. It would not have been possible to carry out an audit of the building projects at the same time and so a cut-off date of 30 June was established for the buildings audit. He reminded the Committee that the Swiss audit resources were free to the Organization.

237. The Delegation of Spain congratulated the Chairman on his appointment and also thanked the External Auditor for his excellent documents and the work done. The Delegation wished the Auditor well in his future work. The Delegation commented that what the External Auditor had said was technically very sound, there were difficulties that transition to IPSAS standards had entailed in the financial statements. However, in the audit summary, paragraph 4 said that the financial statements had shown a positive result, with 800,000 Swiss francs, and yet according to IPSAS, there was a deficit of 32.2 million Swiss francs. The statement was also repeated afterwards, in paragraph 21, of Annex I of the report. It said that there had been a surplus, and that by the virtue of the IPSAS standards this had become a deficit of 32.2 million. The IPSAS correction, at the end of the exercise, was positive. It was just not negative. In the Delegation’s opinion this question could not really be attributed to the IPSAS standards - the fact that there was suddenly a deficit. It was the use of the reserves. That was what it was. IPSAS meant that the surplus would have been greater.

238. The External Auditor explained that Statement V of the Financial Statements provided a comparison between results against budget and those prepared in accordance with IPSAS. The actual results were comparable with the budget because both were prepared according to the cash-based principle. Adjustments were then required for IPSAS to ensure that the results complied with the principle of accrual. Hence the surplus of 0.8 Swiss francs had become a deficit of 32.2 million Swiss francs. The difference between the cash principle and the accrual principle was the most difficult thing to understand with regard to IPSAS.

239. The Controller acknowledged that adjustments to the results against budget were made up of two parts: one relating to IPSAS and one which dealt with expenditures against reserves. IPSAS adjustments covered the usual items such as depreciation and the expenditure against reserves reflected expenditures on projects which had been approved by Member States in the past. The Organization had achieved a surplus against budget of 0.8 million Swiss francs, the IPSAS adjustments had had a positive impact and expenditure against reserves, as authorized, had led to an overall deficit result of 32.2 million Swiss francs.

240. The Delegation of Spain responded that it was not reproaching anyone whatsoever about the submission of the financial statements by the Secretariat. It was done perfectly well. The Secretariat had made a clear-cut distinction between the exercise of the budget and had made adjustments, one due to IPSAS which was positive, which the Delegation accepted, and another adjustment which was not due to IPSAS but to a mechanism. And that was what the Controller had explained, a mechanism whereby one had authorized the direct use of reserves. This of course had a repercussion on the financial statements. It was the good work of the Secretariat which enabled the Delegation to detect what it considered to be a mistake. The only thing the Delegation was trying to point out was that the difference in the result of the exercise was because of the use of the reserves. It was not because of the IPSAS adjustments. It was a question of the reserves, and that was what the delegation wished to say. The Delegation wished to clarify that the fact that the result of the exercise was negative was not because of IPSAS adjustments but because of the use of reserves which had been approved by the Assembly. Personally, the Delegation did not like the fact that reserves were used directly, because it meant that the expenditure became higher. Member States had approved a budget with a deficit. This was a decision which the Delegation had tried to explain in the past years and nothing had happened. Everybody had accepted the fact. What was being discussed at present was that members were laying the blame on the IPSAS adjustments. There had been a deficit. No. It had been the use of the reserves. That meant that we were using up the heritage of the Organization. What the Delegation was trying to correct was that this use of reserves should not be justified under an IPSAS adjustment. It was the Auditor that had said this and the delegation thought that it was a mistake.

241. The Chair asked the External Auditor to clarify the situation regarding IPSAS adjustments and the use of reserves.

242. The External Auditor explained that he did not accept that the wording of paragraph 4 of the Audit Summary within his report was erroneous. Reserve financed expenditure had to be included in order to satisfy the accruals principle underlying IPSAS. He acknowledged that this was not the only reason to include such expenditure. However, it was not incorrect to state that the overall result, once IPSAS adjustments and reserve-funded expenditure were included, was a deficit of 32.2 million Swiss francs.

243. The Delegation of Spain apologized if it had given the impression that the report was erroneous or false, this had not been the intention. It only wished to correct an error which it believed had crept in. Looking at the tables, there were two lines that followed, and it seemed to be an IPSAS adjustment. In fact it was a reserves adjustment. The two run together. A further question was raised concerning paragraph 23 of the Annex of the External Auditor's report which stated that income achieved equaled the income forecast. The Delegation said that, however, page 8 of the financial statements showed a difference of about 12.8 million

Swiss francs, which when adjusted with IPSAS was even greater: almost 20 million of income less than the amount budgeted. Whatever the criterion applied, there was a tremendous difference between the income forecasted and the income achieved. The External Auditor stated that the Organization had complied with the budgetary forecast, the statement which the Delegation did not understand. The Delegation was trying to clarify things, help the best presentation of the financial statements and promote a better understanding.

244. The External Auditor admitted that he did not really understand the Delegation of Spain's question. He explained that the income shown on Statement V was shown on a budgetary basis and that the difference shown of 12.8 million Swiss francs between actual results and budget forecasts had nothing to do with IPSAS.

245. The Delegation of Spain acknowledged that the difference of 12.8 million Swiss francs had nothing to do with IPSAS, adding that if IPSAS adjustments were included, 2011 revenue was 293.2 million Swiss francs whilst budgeted revenue was 313.1 million Swiss francs. The difference was approximately 19.8 million Swiss francs.

246. The Chair, recognizing that there was possibly some misunderstanding between the External Auditor and the Delegation of Spain, called for a short pause so that the two parties and any other delegates who wished to participate, could discuss and resolve the matter.

247. Following the pause, the External Auditor explained that the problem lay in the way in which he had expressed himself in French in the original report. In French, he had stated that income achieved lay "within the framework of the forecast". This did not mean that actual income and forecast income were identical. There was possibly a correction to be made to the Spanish translation.

248. The Delegation of Spain thought that the English translation suggested the same meaning as the Spanish translation. In fact actual revenue was 11 per cent less than the prediction which was sufficiently high that it could not be said that it fitted with the forecast. An 11 per cent deficit in the budget in countries such as Spain led to major problems. The Delegation continued with a question concerning pension fund rights: the statement by the Auditor with respect to the pension fund rights was a warning, for which the Delegation expressed its appreciation, regarding the future of the pension fund and the impact that this could have on the finances of the Organization. It meant that, possibly, a new approach to the problem was needed. The audit report said that the IPSAS standard, in the Auditor's view, contained an obligation to include this information in the obligations. The Delegation asked whether the standards set up by the international auditing organization had the force of law in terms of IPSAS. The Swiss auditors felt that these possible liabilities should be included in the statements, because the calculation was 200 million Swiss francs, which, if it were included in the statements, would have to be included amongst the liabilities. The fact was that the Secretariat's financial statements only indicated that they were not included, because they had not been quantified, and that is why the delegation wished to know the view of the Auditor on this particular situation.

249. The Chair thanked the Delegation of Spain for the clarification on the question of the revenue and passed the floor to the External Auditor.

250. The External Auditor responded that while the 200 million Swiss francs could represent a possible risk for WIPO, the 200 million was not a calculation on the part of the External Auditor, but rather an affirmation on the basis of the consultant's report that the Auditor looked at in respect of the UN, New York pension fund, and the 200 million was an estimation. The External Auditor could not guarantee the accuracy of that figure, inasmuch as the UN, New York pension fund was not able to say what would be the precise liability to be assumed by each of the UN agencies. So the Swiss auditor's view did not change because the Swiss auditor felt, as explained in the introductory statement, that these possible liabilities fell under a defined benefit

plan, where the participating entities were under common control. The External Auditor added that he was in the minority in holding this view. He recommended that members wait and see what happened in the future in respect of the question of the UN pension fund. The UN pension fund also had the obligation to move to the IPSAS standards, eventually. They had a great many difficulties to resolve, and the External Auditor was not sure whether they had to adopt them by 2014 or later. So if one waited until then, one would have a much more precise idea of the theoretical risk for WIPO in terms of the pension fund. What was presented was the view of an independent auditor set against the views of other independent auditors. In order to illustrate this independence, and so that in 50 years time it would not be said that the Swiss auditor had never mentioned the potential risk to WIPO from the pension fund, the Auditor remarked that only the future would determine whether his view was correct or not.

251. The Delegation of Spain wished to share their concern with the other delegates and the External Auditor. This was the fear that there might be certain risks of particular importance facing the Organization. First, against the budget for 2011 there was a 32 million Swiss francs deficit, and this was due to the use of the reserves, and not to the IPSAS standards. The Delegation said that members knew that there was a very high deficit in the past, and did not want to have to deal with such deficits in the future. Secondly, there was the fact that future obligations in respect of the pension fund might not actually be accounted for. The Delegation did not know the exact amount, but felt that this situation must be dealt with and that all due importance must be given to these major risks. First, Member States needed to acknowledge them; and secondly, find a way to deal with them. Member States should not be hiding behind the changeover to IPSAS standards, because there was a genuine situation to be dealt with aside from the IPSAS standards. The Delegation wished to convey its concern with these matters to the External Auditor and asked for his assistance in order to correctly identify these risks, so that they could be dealt with properly.

252. The Chair expressed his thanks to the External Auditor whose mandate was now at an end.

253. The Secretariat, recalling that the Director General had already given his thanks on behalf of WIPO to the Swiss Federal Audit Office during his opening address to the Committee, also wished to thank the Swiss Federal Audit Office, Mr. Monnot, his staff, current staff and all the past staff, who had guided the Organization and provided WIPO with excellent audit services and advice for the past 119 years.

254. The Controller stated that he had very much appreciated the kind comments made by the External Auditor, in particular his comments addressed to Finance Services and wished to thank him. In turn, he wanted to thank the External Auditor who, for these many years, had worked with WIPO. He wished to thank him for his advice, for his professionalism, and even if it seemed paradoxical, his criticisms because these had always been very positive in nature, enabling the Organization to improve its transparency, and to do a better job of carrying out its mission. The Controller continued: "With regard to all the many audits that were done recently on IPSAS and the new construction projects, I do thank him, and I wish him every success in his new assignments."

255. The Chair read out decision paragraphs for the documents under consideration.

Annual Financial Statements 2011
document WO/PBC/19/4

256. The Program and Budget Committee recommended to the WIPO General Assembly the approval of the 2011 Financial Statements contained in document WO/PBC/19/4.

External Auditor's Report on the Annual Financial Statements 2011
document WO/PBC/19/6

257. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/6.

Financial Supervision Audit on WIPO Involvement with the UNICC
document WO/PBC/19/17

258. The Program and Budget Committee recommended to the WIPO General Assembly to take note of the contents of document WO/PBC/19/17.

Financial Supervision Audit by the External Auditor on the Construction Projects and the Building Security Project
document WO/PBC/19/18

259. The Program and Budget Committee recommended to the WIPO General Assembly to take note of the contents of document WO/PBC/19/18.

Information Technology (IT) Audit on the Project to Implement the AIMS System
document WO/PBC/19/19

260. The Program and Budget Committee recommended to the WIPO General Assembly to take note of the contents of document WO/PBC/19/19.

Status of the Payment of Contributions as at June 30, 2012

261. The Chair referred the Committee to the one document remaining under item 10, i.e., Status of the Payment of Contributions as of June 30, 2012 (document WO/PBC/19/7). This document contained information concerning the arrears in annual contributions and in payments towards the working capital funds. It should be noted that an update of this document would be distributed for the 50th session of the Assemblies in order to include payments received since June 30, 2012, so as to provide an updated picture of the status of the payment of contributions. There being no comments, the Committee took note of the document.

262. The Program and Budget Committee recommended to the General Assembly of WIPO to take note of the contents of document WO/PBC/19/7.

ITEM 8: PROGRAM PERFORMANCE REPORT FOR 2010-2011

263. Discussions were based on documents WO/PBC/19/2 and WO/PBC/9/3,

264. The Chair announced that the following topics would be discussed under this agenda item: Program Performance Report (PPR) for 2010-2011, the IAOD Validation Report of the PPR 2010-2011 and the presentation on IP and Global Challenges (Program 18). The document WO/PBC/19/2 contained an overview of WIPO's organizational performance during the biennium 2010-2011, achieved with resources approved in the 2010/11 Program and Budget. The Chair invited the Secretariat to introduce document WO/PBC/19/2.

265. The Secretariat explained that the PPR for the biennium 2010-2011 was the end of biennium report, as opposed to the progress report that had been presented midway through the biennium (in 2011). It measured the achievement of the expected results and closed the performance loop, which started with the planning in the Program and Budget, continued with the implementation during the biennium, and then finished with the assessment of achievements. A number of improvements had been introduced in the report, as compared to the past biennia. First of all, there was a summary review of the main achievements in the

biennium, by Strategic Goal, providing a strategic overview. The report also contained a more succinct summary of the achievements by program. There was a detailed reporting on the implementation of the DA, in a separate section under each program based on the improvements introduced in the last PPR. There was more transparent reporting on the utilization of resources, based on the comments received from Member States at the previous sessions of the PBC. For the first time, a full report on the implementation of the Funds-in-Trust was included (Annex II of the document). This was also the first time that the Secretariat was trying to give Member States a comprehensive report of achievements irrespective of the source of funding, i.e., the regular budget and extra budgetary resources. Finally, the overall presentation of the report had been improved, for example, the performance data tables.

266. The Chair invited the Director, IAOD to present document WO/PBC/19/3 (the IAOD Validation Report on the PPR 2010-2011) as he wished to discuss the two documents together.

267. Director, IAOD stated that the IAOD had carried out a validation of the PPR based on a sample of performance indicators, chosen in a random manner. The objective of the validation was to check independently the reliability and the authenticity of information on the implementation of the program and also the implementation rate of the recommendations contained in previous validation reports. The IAOD had assessed the appropriation level by persons responsible for the programs and for process tools found in the programs, particularly result-based management tools. The main results of this validation exercise, within the limits dictated by the sampling, were as follows: the strong points were the respect of the deadlines, effective and efficient collection of data and the implementation rate. The points which could be improved were: the relevance of data, the insufficiency or imprecision of data regarding implementation and the process which was found within the program. This enabled drawing up reports more than managing programs. So there was an issue of appropriation of the tools, handling the tools, managing the tools and of the RBM to make these tools useful and to be used properly by the management. Indeed, there had been improvements in the report in terms of the layout, performance indicators, the quality of reference data as well as definition of objectives. Follow-up of indicators was still considered by the managers as being an administrative task. It had not yet become a tool to help improve management. The improvement of the appropriation level, mastery levels, was still possible. The training and the reinforced follow-up of the staff could lead to this greater mastery, and as pointed out before, the IAOD had looked at all recommendations of the previous validation report to see whether they had been implemented, or were being implemented. At the end of the report there were recommendations, which were also listed in the summary at the beginning of the report, on the need to strengthen the quality of the data as well as the use of the indicators and the tools to manage the programs. Then, to increase the support given to RBM, follow-up with the staff by organizing more workshops, and in order to facilitate the validation the IAOD was trying to establish in advance the deadlines for handing in the reports and the consolidated reports without undue pressure of time management. It should also be noted that these validation reports on the implementation of the RBM and the management of programs covered different cycles. Therefore, recommendations made at the end of the 2010-2011 cycle were made at a time when the document on the 2012-2013 biennium had already been discussed and approved. The Program and Budget for the 2012/13 biennium already represented quite a bit of headway and improvement if compared it to the previous document. It was a constantly evolving improvement process.

268. The Chair invited general comments from delegations.

269. The Delegation of the United States of America thanked the Secretariat for providing the PPR for 2010-2011 and the IAOD Validation Report on the PPR, contained in documents WO/PBC/19/2 and WO/PBC/19/3, respectively. The Delegation's comments were not necessarily specific to the PPR and the validation thereof. It wished to make some general comments regarding WIPO's role and its importance to the United States, and to address some recent activities that had risen the Delegation's concern with respect to how the Organization

provided technical assistance to Member States. In addition, Ms. Deborah Lashley-Johnson from the United States Patent and Trademark Office would address a specific concern regarding an expert panel report on IP and Health. The challenges of protecting intellectual property required a strong partnership with international organizations whose comparative advantages lied in their global reach and inclusiveness. That was why the United States wanted to ensure that WIPO remained a viable organization that continued to promote the protection of intellectual property throughout the world, not only for United States companies and individuals, but for all those whose creativity produced intellectual property of one kind or another. But, part of remaining a viable partner was ensuring that the resources provided by Member States and fees collected from the businesses, institutions, and individuals of Member States had an appropriate level of oversight, accountability, and transparency. This was why the United States was very concerned that WIPO conducted technical assistance projects and transferred United States -developed technology to countries subjected to the UN Security Council sanctions, without the knowledge of the United States, other Member States, or the appropriate UN Security Council sanctions committees. The United States was primarily concerned with three questions: what happened, how to correct it, and how to prevent it in the future. The Delegation believed that WIPO and Member States needed to consider very seriously ways to improve oversight, transparency and accountability mechanisms, and to put in place safeguards that ensured that Member States and the relevant UN Security Council sanction committees were properly consulted in the future before projects in countries subject to UN Security Council sanctions were approved. The Delegation welcomed that WIPO had made available on line the recently completed Independent External Review Report on Technical Assistance Provided to Countries Subject to United Nations Sanctions. The Delegation was studying the report and its recommendations. It looked forward to hearing how the Organization planned to implement the recommendations in a timely and meaningful manner, as well as any other steps it planned to address the serious issues raised in the report. In the Delegation's own review of the situation, it believed that WIPO needed to put in place new comprehensive and durable safeguards that: (i) required the WIPO Internal Audit and Oversight Division to conduct a monthly review of projects or other assistance intended for States subjected to Security Council sanctions, and the External Auditors Office follow up with a quarterly review and an annual report to all Member States at the WIPO Assembly; (ii) follow through with the commitment to verify the end-use of the equipment already shipped to certain countries subject to UN Security Council resolutions. This issue had also made apparent the importance of sound whistleblower protection policies. The United States position had been very clear across all UN organizations. Whistleblowers should be able to report in good faith concerning suspected fraud and/or corruption without fear of reprisal. When reprisals were taken or threatened, whistleblowers should have an effective recourse mechanism. The Delegation commended the Secretariat on the work done so far on the new Whistleblower Protection Policy, and looked forward to its approval and implementation at the October meeting of the Coordination Committee. However, in the meantime, it was vitally important for the Director General to provide assurances, in writing, to all WIPO employees that they may discuss these transfers now being reviewed without fear of reprisal of any kind. The Delegation was committed to working directly with the Director General and Secretariat to ensure that the Organization was transparent and accountable, responsive to Member States, and abode by established international rules and regulations, particularly when there were questionable transactions involving countries subject to UN Security Council sanctions.

270. The Chair invited the United States of America to deliver its second statement.

271. The Delegation of United States of America strongly supported WIPO's important efforts to help countries develop national IP strategies to meet national needs and to increase economic growth. National IP strategy documents formulated by governments with input from the private sector and universities, research institutions, state choices as to how to use IP to promote and strengthen scientific and technological research, development and commercialization. Over the years, WIPO had provided an incredible support in the form of technical assistance, expertise, comparative data, and the IP audit tool which was a

questionnaire that could be used prior to the development of an IP strategy to access the existing support infrastructure and preconditions for IP asset development and management. It responds to the question, where are we, in order to help define where we want to go. Further, WIPO's Development Agenda aimed to ensure that development considerations form an integral part of WIPO's work, in particular the WIPO GA's adoption of a set of 45 Recommendations and the creation of the Committee on Development and IP had sought to enhance the development dimension of the Organization's projects and activities. While the United States was deeply supportive of WIPO's role in assisting countries to develop national IP strategies, and the growing and needed role of WIPO to help address IP and development issues, the Delegation was deeply concerned about a project entitled, "WIPO Framework for Designing National IP Strategies for Development". While this project appeared to indicate that it was related to a number of ongoing and approved Development Agenda projects, this project had not been vetted or approved by Member States, notably in the CDIP. Further, an expert group panel considering IP and Health charged with the responsibility to develop and draft a report, had already been selected without Member State discussion. From the Delegation's point of view, this process was highly irregular. The selected experts were apparently under an SSA contract and to be paid remuneration and travel costs. The Delegation believed that Member States should be given the opportunity to discuss the project before any further work on the report was undertaken. The work so far commissioned by WIPO, the Delegation hoped, would be retained by WIPO until the project was approved by Member States. The Delegation looked forward to seeing a project proposal on this at the future CDIP meeting.

272. The Delegation of France considered the general approach in the two documents very positive. It inquired whether it was planned that each and every one of the Committees used the elements presented in this report to carry out an exercise of self-assessment. The Delegation found that the main report of the Secretariat was very difficult to use because it was very voluminous. The Delegation added that Member States were trying to see how each and every one could learn from this work, and feed it into the next budgetary cycle. The question related to the sampling within each program in the Validation Report: were the findings based on sampling? Furthermore, the Delegation wished to comment on the very important amounts cited in the report. There seemed to be a bit of a hazy picture as regarded the sections on the reference amounts used to evaluate the evolution. It was a transitory problem in this and in other documents too, because it seemed that sometimes the resources had been transferred beyond the ceilings of certain permissible rules. The auditor's report stated that one program had been concerned, so the Delegation considered it a transitory problem, but which Member States would have to watch out for in the future, so that these transfers were tracked properly so that Member States understood correctly what was taken as a reference. The third question related to the reporting on development. The Delegation had noted that there was a rather interesting effort to try to quantify the impact on development, in each and every program. This was interesting, even if the exercise was a bit of a virtual one. The problem was that there were inconsistencies in the definition and characteristics in some programs which quantified development when considering the new definition, because some development-related elements were not taken into account. Therefore, inconsistencies would continue, which was of concern. The Delegation's next point referred to the IAOD validation. The Delegation considered this to be a good practice and noted that it appeared that this exercise had not yet been carried out in another organization in Geneva. The Delegation considered the exercise useful and the practice should therefore be continued. It was interested in seeing how this work was used, in particular the analysis of the quality of the data and the evaluation criteria, which were applied to each program. The validation exercise was part of the good practices which the Delegation would like to be able to share with other organizations. For WIPO, the Delegation expected this document to be a key document for the forthcoming cycle. The report flagged an important and decisive point regarding the uptake and use of RBM approaches and practices. The data criteria and evaluation had to be tools to assist a person managing his/her program, not just a list of tasks. This cultural change could be brought about. The Delegation noted that the reform was really ongoing, and considered that the entire credibility of RBM was based on

whether these techniques were mastered or not. This was the point that was the most decisive point as far as the Delegation's general comments were concerned.

273. The Delegation of Brazil, speaking on behalf of the DAG, thanked the Secretariat for preparing the PPR for 2010-2011. The report contained a large volume of information, which was very useful to Member States in following the activities of the Organization. The DAG also welcomed document WO/PBC/19/3, the validation of the PPR 2010-2011, prepared by the IAOD. This document was a necessary tool to better understand the information provided in the PPR and presented useful analysis of the relevance and accuracy of the indicators in the PPR. The DAG took note of the fact that this was the third validation exercise undertaken by the IAOD since 2008 and encouraged this practice. It also took note that the IAOD considered the 2012/13 Program and Budget of much better quality than the previous one, and that further refinements were expected to be made in the next exercise. As regards the PPR, the DAG noted that the PBC was invited to recommend the approval of the document to the Assemblies of the Member States of WIPO. Given the nature of the document, and due to some considerations that followed, it was the DAG's view that the PBC should recommend to the General Assemblies to take note of the contents of the PPR. With regard to the nature of the document, the DAG considered that the PPR was a self-assessment, undertaken by Program Managers, of the performance of the Organization, as explained in the first paragraph of the introduction. It served the purpose of reporting to Member States within WIPO's RBM framework. The DAG recognized the value of the document as a major accountability tool for Member States. However, it considered that the PPR was not a document to be approved by Member States, since it would imply Member States' agreement with all aspects of the assessment presented in the report. This was not, by its nature, a document that had been negotiated with Member States. In its view, it was more appropriate for Member States to take note of it. DAG members had some observations regarding the presentation of the programs, which would be presented during the discussion of the document. Considering the document as a whole, it was noted that the IAOD identified some strengths and some limitations to the report. Some of the strengths were the time lines of reporting on the individual PPRs, the efficiency of data collection and ease of access to performance data. Some of the limitations were partial and related to the relevance of the performance data, coupled with a lack of sufficiency and comprehensive of the data. The DAG had also noticed that, in some cases, baselines had been changed, and added that it was not familiar with the exact reasons for this. It was not explained in the report in all cases, which gave rise to some concerns. In addition, the narrative of the DA implementation was differed through the programs, which was equally of concern. There should be a more elaborate analysis on the DA implementation following the mainstreaming of DA recommendations in all areas of WIPO's work. Regarding document WO/PBC/19/3, page 15, the authors provided a table of validation findings, based on a methodology using random sampling. According to the information in the table, only 27 per cent of the programs provided performance data considered as relevant or valuable. Regarding the criteria of comprehensiveness, 42 per cent of the programs partially met the criteria, while 10 per cent did not meet the criteria. The IAOD Validation Report highlighted examples of good practices for each of the criteria. The DAG encouraged these good practices to be taken as models to be followed in all programs. Lastly, the IAOD made recommendations (Chapter 6 of the document) that should help the Secretariat improve the quality and reliability of the PPR. The DAG encouraged the adoption of such recommendations. Regarding the recommendations of the past validation reports, the IAOD had provided a follow-up on the status of the implementation (Chapter 7 of the report). Out of the 11 recommendations, eight were classified as partially implemented. The DAG requested verification from the Secretariat on the measures being taken in order to fully implement those recommendations. In this context, the DAG highlighted the importance of recommendation 7. It welcomed the fact that there was evidence of improvements regarding the monitoring of the Program and Budget. However, regarding the MTSP, it found it worrisome that 97 per cent of the respondents had not been aware of the development of monitoring tools for tracking progress.

274. The Delegation of Egypt, speaking on behalf of the African Group, referred to the African Group's opening statement. The Group appreciated the work of the Secretariat in compiling the PPR for 2010-2011. The Group wished to take note of this document, which was a self-assessment report by the WIPO Program Managers prepared without previous consultation or participation of Member States. The African Group supported the remarks made by the DAG, and also took positive note of the remarks made by the Delegation of France. Lastly, it wished to highlight the recommendations in the report by the IAOD.

275. The Delegation of the Republic of Korea thanked the Secretariat for the preparation of the PPR. It noted with satisfaction the positive improvements made in respect of the ownership of the results framework and the use of the results framework for internal monitoring, as contained in the IAOD Validation Report. From the Delegation's experience with RBM, the Delegation fully understood that this kind of exercise was, by nature, a work in progress. It meant that there was always room for improvements. In this respect, the Delegation noted that some of the indicators needed further refining in order to appropriately measure performance. The Delegation inquired as to the mechanism used to define indicators and set targets, and whether the IAOD was involved in the validation of indicators. Referring to the IAOD Validation Report, the Delegation stated that recommendation 2 highlighted that management of the result frameworks to support decision-making processes still needed to be improved. One way of addressing this could be the introduction of a rating system for every program's expected results and activities. This would contribute to a better alignment of programs to the goals of WIPO. Lastly, the Delegation wished to reiterate the statements it had made during the last CDIP meeting i.e., that WIPO, as a UN agency, should observe all UN regulations, including UN security regulations.

276. The Delegation of South Africa aligned itself with the statement made by the African Group and the DAG. It also noted how the report had improved in terms of its presentation and content. It thanked the Secretariat for those improvements. The Delegation also thanked the Secretariat for providing a number of activities at the country level, because South Africa was one of the recipient countries. The Delegation had several observations, some of which had been mentioned by the DAG. With reference to baselines, the Delegation requested a detailed explanation on why the baselines had been changed. It understood that there were instances where 2009 baselines had been given, for instance, and in some instances there was TBD - "to be determined". But, there were instances where established baselines had been changed. Secondly, each program had a section on the implementation of the DA. However, this section had been reduced to only concern the implementation of DA projects. In this regard, the Delegation stressed that the DA was not limited to implementing the DA projects. It was about implementing the DA as a whole, as the framework. The Delegation acknowledged that certain programs did elaborate on this but, in general, it wished to make this observation because it would be useful to go into detail as to how a program had implemented the DA, or not. There was a repeated reference throughout the programs to a sentence reading: "The design, planning and implementation of activities undertaken by the Program were informed by the relevant DA recommendations". The Delegation requested that this sentence be elaborated on. The third observation regarded details, in terms of information. There were instances where it would be appreciated to know more where certain activities had taken place. In some instances certain beneficiaries were listed and in some cases additional details could be provided.

277. The Delegation of Pakistan aligned itself with the statement made by the Delegation of Brazil on behalf of the DAG. The Secretariat needed to be thanked for the document and Member States appreciated the improvements that had been made. The Delegation also thanked the IAOD for pointing out improvements as well as weaknesses and limitations. The Delegation believed it important to build upon those weaknesses, in terms of improvements with regard to the PPR and therefore looked forward to the next PPR.

278. The Delegation of China thanked the Secretariat for their hard work in preparing the PPR for 2010-2011, and the IAOD for the Validation Report. As explained by the Secretariat, this PPR had many improvements, of which the Delegation was highly appreciative. In its view, the

Validation Report objectively reflected some issues. This showed that WIPO had strengthened the implementation and management of its programs and its determination to improve transparency. The Delegation welcomed this. It hoped that, in the future, when evaluating implementation, WIPO would actively take into account the recommendations made in the Validation Report.

279. The Delegation of Australia was pleased with the progress that the Organization had achieved in the period of 2010-2011. It supported the use of WIPO's RBM framework and the reporting mechanisms contained in the PPR for 2010-2011. It noted recommendations in document WO/PBC/19/3 and looked forward to the response from the Organization on the issues raised in the report. The Delegation supported WIPO Strategic Realignment Program to change office culture and strengthen business office systems and policies. It added that it would raise questions on the methodology used in the Validation Report when the report would be discussed.

280. The Delegation of Iran (Islamic Republic of Iran) commented that it had been absent when the Delegation of the United States of America had made its intervention. It wished to reserves its right to comment the following morning. The Delegation was surprised to learn, however, that WIPO's technical assistance to Iran had been in violation of the UN sanctions. Those familiar with the basic international law would realize that this statement was a purely political statement, which would jeopardize the whole of WIPO's technical environment. The Delegation's country and other developing countries, wished the technical assistance of WIPO to continue in accordance with the 45 DA recommendations, especially article 5 (Cluster A), which requested that WIPO display general information on all technical assistance activities, and provide, on request from Member States, confidential details with the consent of the Member State(s) and other recipients concerned. In this case, this, unfortunately, had not been applied.

281. The Delegation of Germany made a proposal for the future PPRs. The Delegation said that there was a big problem in the budgetary process: Member States decided on a budget, without knowing the result of the previous one. Member States had decided, in September 2011, on the 2012/13 budget but the results of 2011 were only known at present. It would be helpful to have a list containing both financial and results information for 2012/13 in the PPR. This would allow Member States to assess the extent to which issues identified in 2010/11 had already been taken on board for 2012/13 and whether the Organization was going in the right direction.

282. The Secretariat responded to the inquiries made by the delegations:

The Delegation of France mentioned the use of the PPR in the work of the WIPO committees and whether that would be useful. The Secretariat thanked the Delegation of France for the suggestion. Because it would welcome the use of the PPR more extensively in substantive terms in the other committees, as well, as it would help informed decision making and would ensure a wider use of this document than was currently the case.

There had been several suggestions from the Delegations of France and Germany and questions on how to improve the link between the PPR and the Program and Budget discussions. In this context the Secretariat recalled that the annual PPR, covering the first year of the biennium, was submitted in time to inform the Program and Budget discussions for the following biennium. This annual PPR covered progress made in the first year of the biennium. The Delegation of Germany had made specific suggestions on how this could be further improved. The Secretariat had taken due note of that and would look into which improvements could be made in this regard.

Several delegations had mentioned the sections on the implementation of the DA. One concern raised was in respect of the consistency of reporting across all programs. The

Secretariat had taken due note of Member States' concerns and would work on improving that in future program performance reports. However, the Secretariat recalled that the inconsistencies across programs were partly due to the ongoing efforts of mainstreaming development throughout all the substantive work of the Organization and therefore across all programs. It was work in progress. There were some very good examples of it already in this PPR, e.g. in Program 4. The Secretariat added that it could definitely be improved further and that it would be addressed. On this subject, the Delegation of France had also mentioned the link between the substance, as reported under the programs, and development expenditure as mentioned in Annex 1 of the document. The Secretariat drew Member States' attention to the fact that, as mentioned in Annex 1, the way that development expenditure was estimated (as compared to past biennia) had been considerably refined and it would therefore be easier to track and link the substance and the expenditure in the future. Also, 2012-13 was the first biennium with the results-based budget and for each of the results there was the development share, which had not existed in the past. Therefore, the link between the substance and the resources had become more apparent and easier to track.

The Delegation of South Africa had mentioned that the sections on the implementation of the DA were concerned mainly with the implementation of the DA projects. The Secretariat had taken due note of that and would ensure that the implementation of the development recommendations was better addressed in the relevant sections under each program. In this context, the Secretariat pointed out Program 8, which was the Program concerned with the coordination of the DA in the Organization. The reporting under this Program included an overview of how the DA implementation was progressing throughout the whole Organization.

The Delegation of France had made an observation regarding the Validation Report and the difference between managing for results *versus* reporting for results. The Secretariat explained that changing the culture to a results-based culture in the Organization took time and was difficult to do from one day to the other. The Secretariat highlighted that, while there was still a lot of progress to be made, the Validation Report pointed out that 16 programs out of 31 reported that they were using the results framework for internal management purposes, as compared with six programs that had reported so in the validation exercise in 2008-2009. It meant an increase from 20 per cent of the programs to 52 per cent of the programs. The Secretariat thought that good progress had been made, acknowledging the fact that further improvement were needed in going forward.

The Delegations of Brazil, on behalf of the DAG, Egypt on behalf of the African Group and South Africa raised the point of approving the PPR *versus* noting the PPR. The Secretariat recalled that the PPR at WIPO had consistently been approved by Member States along with the financial reports - so two sides of the same coin - the resource side and substantive side. It should be noted, however, that there was no statutory requirements in the Financial Regulations and Rules for approving the PPR. However, the PPR was an integral part of the RBM framework of the Organization and it was a principal accountability tool for reporting to Member States on organizational performance. Approving the PPR contributed to the strengthening of the RBM framework in the Organization and it was best practice, if one looked across other organizations. In this context, the Secretariat drew the delegations' attention to a JIU report from 2006, which was still very relevant, on improving the implementation of RBM in the UN system. Recommendation 6 of that report recommended the approval of the PPR in order to close the loop from the Program and Budget and assessing performance.

The Delegation of Brazil observed that the PPR was based on a self assessment rather than an independent assessment or evaluation exercise. The Secretariat recalled that this was exactly the reason why the practice of validating the biennial PPR had been instituted so that the validation report, by an independent entity, would give assurance to Member States that the information contained in the report and the factual evidence on which the PPR was based is valid. Also, the WIPO practice of independent validation of the PPR was unique in the UN

system. WIPO was the only Organization - to the Secretariat's knowledge - with this practice, introduced to provide the necessary assurance to Member States. In summary, the Secretariat was of the view that not approving the PPR would weaken the accountability framework by not closing the performance management loop and the current RBM implementation efforts.

In answer to the question from the DAG, and South Africa regarding baselines, the Secretariat produced an illustrative slide. The baselines in any given Program and Budget were determined at the time when the Secretariat prepared the Program and Budget. Taking the example of 2012-13, the baselines had been determined towards the middle of year 2011. However, the baselines should reflect the situation at the end of 2011 because they provided the benchmark against which performance was measured during a biennium. Therefore, the Secretariat had instituted a practice that, after the approval of the Program and Budget, it launched a baseline update exercise so that the updated baseline reflected the situation at the end of 2011. It was also important to note in this context that in those cases where there were consistent indicators from one biennium to the next, the performance data at the end of one biennium, for example, as reported in the PPR for 2010-2011 would form the baseline for the upcoming biennium i.e., for 2012-2013. This explained why some of the baselines in the PPR were not the same as in the Program and Budget. It should be noted that the setting of the baselines was work in progress because, as the Secretariat had more experience with collecting performance data, it should, with time, be in a better position to estimate the baselines at the end of the biennium. Therefore, the Secretariat expected to see less updates in the future than was currently the case.

The Delegation of the Republic of Korea had inquired about the mechanism for defining performance indicators, baselines and targets in the Program and Budget. The Secretariat said that this process was an interactive process between program managers and the central facilitating unit which is the Program Management and Performance Section. Program managers were the custodians of the substance on the performance indicators and provided quality assurance to ensure that the indicator was indeed an indicator. Efforts were also devoted to defining data collection mechanism. This also related to one of the recommendations in the IAOD Validation Report, because the Secretariat was very much trying to ensure that, for every indicator, there was a well defined data collection mechanism.

283. The Controller responded to the inquiries regarding budgetary transfers and stressed that the Secretariat was very careful with respect the transfer rules. The Organization had a very transparent policy on budget transfers. The documents on the table provided information on the transfers made during the course of the biennium. The PPR contained a table setting out information on budget transfers. When the Secretariat would submit the budget for the next biennium, a similar table would be available. There was also a table on transfers in the PPR at the end of the biennium. In respect of the transparency policy on transfers, the Controller referred to the Financial Management Report (document WO/PBC/19/5). Table 3 showed information relating to the budget adopted and the transfers that had been approved. At the bottom of this table reference was made to the rule which governed transfers, reading: "The Director-General may make transfers from one program of the Program and Budget to another for any given financial period, up to the limit of 5 per cent of the amount corresponding to the biennial appropriation of the receiving program, or to 1 per cent of the total budget, whichever is higher, when such transfers are necessary to ensure the proper functioning of the services (Regulation 5.5 of the FRR". This transfer policy, and the rules that governed it, were issued by or approved by the External Auditor. The Controller referred the delegations to the External Auditor's report (document WO/PBC/19/6) and, in particular, paragraph 23 which said: "the checks carried out by my colleagues showed that budgetary transfers between programs were performed in accordance with the applicable internal regulations."

284. Director, IAOD thanked the delegations for the positive approval of the work done by the internal audit process. He added that it was not part of its core mandate to validate the PPR. It was a customary practice for audit institutions at the national level to validate the program

performance reports. It provided an overall view of the programs of the Organization and the way in which they were being implemented. The Committee had mentioned a concern regarding the sampling of indicators for each program. The IAOD had reviewed each program. Therefore, the Validation Report conclusions took account of the fact that this was based on a sample. The IAOD had chosen certain indicators which might not be the most significant for a particular program. With respect to the RBM, the IAOD Director confirmed that progress had been made and that further progress was possible. It was very useful to use a third party for audit on a regular basis to look at the indicators and assess performance. Some delegations had commented on the changes in the baselines. The IAOD Director said that, as the Secretariat had explained, as the environment changed it had to be taken account of. This could lead to changes in the baselines. At times, there was a lack of documentation explaining the changes, which was a bit perplexing. The Delegation of Brazil had mentioned the recommendation of the previous report on follow-up for the MTSP and the question whether or not there was a tool that would help in the follow-up. The IAOD Director stated that Audit Section would make use of it for the implementation as soon as the tool was available. The recommendations contained in this report, as well as in the other reports that the IAOD submitted to the WIPO management, would be followed up on a regular basis, every two to three months. But, as explained by the IAOC, new tools were constantly being devised for follow-up in order to have a more interactive approach. The possibility of assigning a new mission to the internal audit had been mentioned. But, if the Committee and the Member States entrusted the IAOD with a new mission, they had to also be willing to fund this new mission.

285. The Delegation of Germany, regarding the explanations on the transfers, said that when it compared a few documents it had more questions on the policy of transfers, not on individual transfers. In the 2012/13 Program and Budget transfers were mentioned in March/April because the first draft of the budget came out in the spring. If this list was compared with the PPR, the PPR stated the actual transfers at the end of the year. There were all kinds of combinations: that transfers had increased, had been lowered and sometimes they had increased and the expenditure was less than originally budgeted. Therefore, the Delegation requested explanation on how this process was working. There were unused transfers at the end and sometimes the level of usage was below the original transfer provision. The Delegation assumed that there was a policy and a process, including the level of ADGs/DDGs, because of the regulation of 1 per cent and 5 per cent. The question was: what were the criteria on the approval of transfers? Regarding baselines and targets, the Delegation pointed out that, in the Program and Budget 2012/13, these were indicated as TBD, to be determined. The baselines referred to the end of the 2011, so the Secretariat determined them in the spring of 2012. Some of the targets were already in the document that had been approved. The question was when Member States had been informed of the changes. The Secretariat had explained that there was a process for updating targets and baselines. The Delegation did not know how many of the targets in the document were still valid and how many were already adjusted. The Member States would only learn about this next year. The Delegation inquired whether there was a way to indicate the changes in the PPR.

286. The Delegation of Australia raised a question concerning the Validation Report, which it found helpful in reviewing the PPR. The question related to the difference between numerical and qualitative indicators. There was quite a big diversity of programs in WIPO and some of those programs could be more easily and more appropriately measured with numerical data or numerical indicators, whereas for others it was less easy and less appropriate. The Delegation thought that development-related programs were one area where that was the case because one could, for example, show that seven workshops had been held, which did not necessarily mean that those workshops had been effective or that they had resulted the sustainable development outcomes. That was probably an area where numerical indicators were not so appropriate. Looking through the criteria that used to evaluate the programs it appeared that there might be a bit of a bias towards numerical indicators, or at least there might be a tendency on the part of Program Managers to use numerical indicators, because was a lot easier to demonstrate and collect and they were more accessible. One could compare them more easily

and they were easier to verify. This might well be a question that the Secretariat was dealing with internally. The Delegation, however, would welcome the Secretariat's perspectives on the matter.

287. The Delegation of Spain congratulated the Secretariat on the document and highlighted the importance of RBM and the use of objectives and goals. It wished this to be as up to date as possible, as was expressed by the Delegation of Germany, and wished to see as much clarity as possible. When examining the documents, which were quite long, Member States needed to be able to clearly see comparisons with previous years and be able to identify whether or not the objectives were being met. The Delegation added that, without saying that it was the case, Member States should not be afraid to think about whether some objectives had not been met because it was precisely through the failure to meet certain objectives that Member States could see way forward and identify the areas where additional efforts needed to be made.

288. The Delegation of Peru thought that it would be very useful for Member States to have detailed information on e.g. the amounts by region and by country for development assistance. There could be a table providing a comparison and a breakdown. That was very important and should be done by program, so Member States could see how the moneys were being used. This would also be very useful within the general report.

289. The Delegation of the United Kingdom commented that the report was excellent, very helpful and showed steady gains across many programs. The document would always be a work in progress as performance indicators and performance data constantly evolved. The Validation Report did have some disappointments in it however, in particular, only eight programs met all the relevant criteria. In reference to what the Delegation of Australia had mentioned, the Delegation also believed that sometimes there was a temptation to measure what could be measured rather than what was relevant. If the performance indicators did not reflect what the users and owners of the data thought important, then it would always be difficult. As pointed out, measures needed to be agreed and relevant to the managers concerned, where possible.

290. The Controller, answering the question from the Delegation of Germany on transfers, said it was true that the policy regarding transparency of these transfers meant that during the biennium, with the various reports that the Secretariat produced, the Secretariat provided the status of the transfers. This status, of course, developed throughout the biennium and this was the reason why the figures changed. Concerning the question on the substance or procedure, i.e. the criteria for carrying out a transfer, the Controller said that the Secretariat followed the rules. That was Financial Regulation 5.5 of the FRR which stated that the basic criterion for these transfers was to ensure the smooth running of the services, more particularly, the need for these transfers in order to attain the goals of the Organization as endorsed during the Program and Budget process.

291. The Secretariat responded to other questions. Regarding the baselines (question from the Delegation of Germany), the updating of baselines and baselines indicated in the Program and Budget as "to be determined", the Secretariat clarified that "to be determined" baselines were also updated in the baseline exercise. The Secretariat recognized the fact that it might be difficult for Member States to see exactly which baselines had been updated *versus* those which had not been updated. It said that the Secretariat would reflect on the way of making information on the updated baselines *versus* the original baselines (as in the Program and Budget) clearer in the first PPR of the biennium. That could facilitate the work of the Committee. The Secretariat welcomed the excellent suggestion from the Delegation of Spain as regards comparisons to previous years. It added that it was trying to do that already to some extent by including more graphics in the report, which were not only confined to the biennium but went across. This was still work in progress but it would be extremely helpful to have an indication of the evolution of the performance data over time. Several Delegations had

questions regarding indicators, which were addressed to the Director of IAOD. The Secretariat remarked that the refining of the indicators, as was the case with the expected results, was work in progress. However, if one compared the indicators in the Program and Budget 2010/11 and those in the Program and Budget 2012/13, considerable improvement of the indicators could be seen. That did not mean that more work was not needed, and indeed this would be one of matters to focus on in the next Program and Budget, i.e., the review the indicators to improve them to the extent possible. As regards qualitative versus quantitative indicators, this indeed depended on the nature of the program. For example, in the normative areas it was extremely difficult to define quantitative indicators. When it came to capacity building, which was the example that was highlighted, the Secretariat believed that it was possible, not in terms of the number of training programs implemented, because that was an output, but in terms of the percentage of participants who had been satisfied, who had learned in those events, who were using their knowledge and skills in the institutions and the impact that it was having on the institutions. So, in many cases where the Secretariat thought it was not possible to have quantitative indicators, they could be had while also focusing on quality. The Delegation of Peru had mentioned that a breakdown of development expenditure by countries and regions would be useful. In this context, the Secretariat referred the delegations to the Q&A on development expenditure, in particular Question 3, which had also been raised during the informal consultations. At this point the Secretariat did not have the breakdown by countries and/or the regions, but it would look into the feasibility of this within the context of the implementation of the ERP.

292. The Director, IAOD thanked the Delegations of the United Kingdom and Australia for the questions they raised on quantitative *versus* qualitative indicators. The IAOD Director specified that quantitative indicators were used a lot for quite simple reasons: first, because they were easier to collect data on in the first place and, secondly, because quantitative indicators were easier reference points. If one wished to compare with the last year, one looked at quantitative indicators. It had already been mentioned that quantitative indicators were indicators where the director of the program had full responsibility for them. In the case of workshops, the director of the program could say: 10 training workshops were organized. That was easy to check. But looking at it more qualitatively, e.g. how many people were satisfied with the training or whether the training had any impact on the national IP institution, required a further effort in collecting information. One would also have to base it on answers given by a third party. The director had no control over this and the Secretariat would have to depend on what was said by third parties. Such approach had been discussed this with directors of programs during the investigation of the issue. The IAOD Director added that it was a real change of culture. A lot had been dealt with product by product. That was to say, how many products had emerged rather than the results concerning the quality of the results. The change in culture took a long time. Looking at Program 26 (Internal Audit and Oversight), quantitative indicators were: ten reports, 15 reports, one report. That was fine. However, the IOAD Director did not think that Member States cared how many reports came out but what impact they might have on the management of the Organization. When this was put as a performance indicator, collecting information concerning performance indicators became more complicated than just measuring how many reports had been produced.

293. The Delegation of Spain, referring to Program 27, said that 38 million Swiss francs in expenditure in 2008/09 had been reduced to 35 million Swiss francs in 2010/11. This was a significant saving, taking into account that the number of meetings compared to the previous period had doubled. There was also the question of documents. The Delegation requested more detail on how these savings had been obtained. For example, it seemed that there was a reduction in mailings. The savings were important but, on other items and in other areas, the Delegation saw no significant savings. It said that clarification was needed whether similar efforts had been made on other budget lines such as travel, communications, electricity, and absences related to illness. The savings in these areas were much more subtle and the Delegation wished some assistance in understanding how in one budget line there had been

significant savings and in others, where potentially there could be significant savings, there had been none.

294. The Delegation of Italy referred to the Program 30 on SMEs. Looking at the indicators, four out of ten performance indicators had been discontinued and two partially achieved, which added up to more than half of the indicators. This probably had to do with the way these indicators had been developed. Last year, in the context of the budget approval, there had been an improvement and more streamlined indicators. The Delegation stressed that it encouraged WIPO to renew its effort in this crucial area of providing support to SMEs, which was very important particularly for development countries.

295. The Delegation of Brazil suggested discussing the document program-by-program. If there were no question on a particular program, discussion would go to the next one.

296. For reasons of efficiency the Chair counted the programs on which delegations had questions and announced that only those programs on which there were questions would be discussed.

297. The Delegation of Brazil (speaking on behalf of the DAG) had comment on Programs 1, 2, 3, 4, 8, 11, 17, 22 and 30 and added that some members of the DAG would comment on specific programs.

298. The Delegation of Algeria, commenting on Program 1 on behalf of the DAG and the African Group, thanked the Secretariat for their excellent work in presenting this Program. It added that Program 1 had been presented very clearly. This fact helped the Delegation understand what it wished to know. It wished that the Program better reflect the reality of the activities of the SCP. It referred to page 9 which talked about examining the SCP at the present time. The two Groups felt that the fact that the SCP had not achieved the same amount of progress on all questions had to be clarified further. Some matters had been completed, others had not. It was stated that the SCP had achieved certain amount of progress in certain questions, for example the quality of patents, opposition systems, the relation between patent advisors and their clients. It also said that there was no progress with regard to the question of patents and health. The Groups thought that it was more than necessary to clarify that the progress achieved by the Committee on certain questions but had not been achieved in the case of other matters, which were of equal importance to the SCP. The second comment referred to the fifth paragraph concerning the assistance given by the Patent Division to Member States. The Groups requested clarification whether all seminars and technical assistance given to countries was moving towards a balanced system of IP within the DAG and the African Group. The Groups were concerned about the fact that all these seminars were promoting a very limited view of the future of IP. The Groups asked for further details about the modules, or questions which were examined at those seminars, in order to have a much clearer vision of the IP system which was being promoted during these seminars. The third comment concerned the tables, in particular expected result number 1, and the performance indicator concerning the increase in the number of discussions on the legal practices in patent systems. As far as the two Groups were concerned, there was a certain amount of contradiction. It stated that Member States had seen that the SCP was not yet able to identify questions of common interest. When the Secretariat had been requested to define what the status was, it said that it was fully achieved. However, it was clearly stated that the SCP had not been capable of identifying questions of common interest. This was a very clear contradiction, on which the two Groups requested explanation.

299. The Delegation of South Africa (on behalf of the DAG and the African Group) commented on Program 1. It noted that some of the information provided in paragraph 5 of Program 1, (mention of the Program providing legislative assistance and policy advice to Member States) was confidential. There was a mention of the policies including flexibilities. Since Member States were invited to approve this document, the Delegation requested clarification on the

nature of flexibilities that were provided. The Delegation understood, as stated in the following paragraph, that greater awareness was made on the legal principles and practices of the patent system. It requested more information on that point. Moving on to the performance data, there was a reference, under performance indicators, saying that there was a greater number of Contracting Parties to patent-related WIPO administered treaties. The baseline for the Paris Convention was 173. The performance data over the biennium was 174. The Delegation wished to understand whether it could truly be said that there was a greater number of Members in terms of the Paris Convention because in the Delegation's understanding there was only one. Therefore, the Delegation wondered if this qualified as "fully achieved". The same applied to the Budapest Treaty where the baseline was 72 and the performance data was 75. The increase was three, and again, this was rated "fully achieved". Its understanding was that "greater number" should be above that. The Delegation requested clarification on whether this should be stated "fully achieved" or "partially achieved". As regards the PLT, there was an overlap of performance indicators with the PLT mentioned twice. The Delegation noted that in the 2010/11 Program and Budget it was reflected that way. It requested clarification as to why there was the PLT as a stand alone performance indicator under the third expected result, which was also included in the performance indicator under the first expected result. The results were the same, the baseline was 22 and the performance was 30, and it was "fully achieved". There was an overlap which, perhaps, could be avoided in the future unless there was an explanation as to why the PLT was reflected in both places.

300. The Delegation of Brazil stated that the Delegation of Algeria would comment on Program 2 on behalf of the DAG.

301. The Delegation of Algeria (on Program 2) said that its comments were somewhat similar to those referring to Program 1 because Program 2 also included technical assistance and seminars for developing countries. It requested more detail on the content of these seminars and other activities in order to assess the value of the image given to the current IP system. In respect of the implementation of the DA, Program 2 mentioned studies that had been reviewed in the CDIP. The Delegation wished that, similar to the practice in other Programs, details be provided on the recommendations and resolutions that came out of the CDIP in respect of the studies reviewed. In Program 2, it was reported that the CDIP had looked at a report, however without referring to the comments of the Members States or at least summarizing the views that had been expressed. In Program 1 details were given on the recommendations made by the Committee. The Delegation therefore suggested that the Secretariat add information enabling Member States to learn about the recommendations of the Committee in respect of the studies that had been presented by the Trademarks, Industrial Design and Geographical Indications sector.

302. The Delegation of Brazil made comments on Program 3. The Delegation was pleased to see the wide range of activities that occurred out of this Program during the past biennium and the achievements of the SCCR. The Delegation recognized the hard work of the Secretariat in preparing the documentation and the logistics for all of the meetings carried out during the period. There had been much activity. Regarding the performance data, it was the Delegation's view that, while these provided significant information on the quantitative side, they did not provide the same level of information regarding the qualitative side. This comment could be applicable to many other programs. Member States were informed, for instance, that all of the objectives regarding the contribution to the development of the international copyright and related rights policy and legal framework and global copyright infrastructure had been met. However, it was not possible for Member States to evaluate the content of this contribution. One of the performance indicators referred to the increased number of Member States that had benefited from legislative advice on various copyright and related rights issues. Again, there was no means to check if activities under this performance indicator were conducive to a balanced global copyright system. Along the same lines, regarding the expected result "increased awareness of the capacity of Member States regarding copyright and related rights", one of the performance indicators referred to the number of meetings, conferences and

seminars by organization and country where WIPO had been invited to disseminate information related to copyright and related rights. Again, it was not possible to evaluate the kind of information that had been disseminated and there seemed to be no evaluation on the content. The Delegation took note that the IAOD Validation Report singled out the performance indicator “decisions and requests resulting from the SCCR”. It concluded that the performance indicator was not necessarily meaningful and specific enough to report against the expected result. Its formulation and purpose were not necessarily clear, it continued counting the number of decisions rather than reporting on the quality of decisions. That did not necessarily indicate that the program was achieving its expected result.

303. The Delegation of Brazil (on behalf of the DAG) made the following comments on Program 4. It said that while there was significant volume of activities reported under this Program, achievements in the 2010-2011 biennium actually reflected actions and decisions of Member States. Nevertheless, it was worth mentioning the efforts made by the Secretariat in facilitating IGC meetings, the initiatives towards fundraising for the WIPO Voluntary Fund for accredited indigenous and local communities, the dissemination of information on TK and the informational sessions to brief delegates before the formal sessions. As in the case of Program 3, the DAG referred to the orientation of the capacity building and other technical assistance which did not allow for the evaluation of the content of the said activities. As regards Program 8 on DA coordination, some comments had been made not only by the DAG but also by other delegations in the general statements. The DAG took positive note of the activities undertaken in relation to the expected result “enhanced understanding of the DA by Member States, IGO, Civil Society and other stakeholders”. The report referred to a brochure “WIPO Development Agenda - An Overview”. However, there was no further information about the brochure and its contents. The DAG requested more details on this matter. On performance data in general, the DAG said that, as already mentioned by other delegations, there was lack of information on how the DA recommendations were effectively being implemented in all programs. The first performance indicator stated that all WIPO activities were undertaken in line with the DA principles. It was rated as fully achieved. This could lead to the understanding that the DA had been fully mainstreamed in all areas of WIPO’s work. The DAG view was that this was work in progress. As could be seen, for instance, in the discussions regarding inclusion of the PBC and the CWS in the list of relevant bodies in the context of the coordination mechanism. In the Validation Report prepared by the IAOD, there was an analysis of the performance indicator “recommendations resulting from monitoring and evaluation are successfully being implemented”. It is stated that the data gathered for this performance indicator was not relevant to enable effective reporting. This was an example of an area where improvements could be made in the reporting in respect of this Program. The DAG added that the Delegation of Algeria would comment on its behalf on Program 11.

304. The Delegation of Algeria (on behalf of the DAG), speaking on Program 11, stated that its main concern was the need for certainty that the Academy provided courses, information adapted to the vision that encompassed all of the Members’ views on IP. The DAG needed to know in greater detail the way in which this was related to the DA. The DAG requested clarification to ascertain that all of Member States’ concerns had been taken into account. Regarding the performance data table and in particular the first expected result speaking of a satisfaction rate and which stated “fully achieved”, the DAG wished to know how the Secretariat had been able to assess the satisfaction level of professionals or those who had taken the courses. Where it stated that the satisfaction rate was fully achieved, the DAG inquired what Secretariat had done to ascertain the level of satisfaction of the participants, how the satisfaction level had been assessed. There was also mention of an increase in geographical representation of the cooperation partners. The DAG requested greater detail on this increase and what it meant precisely. Did it mean that there were more partners and, if so, from which regions? How was this geographical representation established?

305. The Delegation of Brazil (on behalf of the DAG), speaking on Program 22 highlighted, as one of the main achievements in this period, the implementation of IPSAS, within the given

timeframe. It also noted that the WIPO 2011 financial statements received an audit opinion. Regarding the budgeting process, DAG considered that there was a need to enhance Member States' participation in the budgeting process. One possible way to achieve this was to review the calendar of meetings. This was one of the suggestions made by the DAG during the exchange of views on WIPO's governance. Finally, the DAG acknowledged the fact that the WIPO Secretariat had started to describe development oriented expenditure. This was a definition that still needed to be further refined in order to be more precise and the DAG looked forward to contributing to this discussion during this session of the PBC. The Delegation added that the Delegation of Algeria would comment on Program 17 and the Delegation of India on Program 30.

306. The Delegation of Algeria (on Program 17), speaking on behalf of the DAG, sought the views of the Secretariat on the first paragraph, which stated that the decision to "continue the work program of the Advisory Committee on Enforcement (ACE) underscored WIPO's efforts to nurture an inclusive approach in WIPO's activities relating to Building Respect for IP". It reminded that the African Group and the DAG had been present at that meeting. The decision had been taken to continue the work of the eighth session because there was no agreement on the future workplan and not because members had been satisfied with the previous work program. There had been a number of proposals on the table in the ACE. There had been a lack of agreement as to which proposal to put forward for the upcoming program budget. Therefore, the extension of the current work program had been discussed. The interpretation given by the Secretariat of this agreement was somewhat confusing. Therefore, the DAG requested clarification on this particular point. Secondly, the third paragraph said that in all activities, the Program ensured that the socioeconomic and development-oriented concerns as well as the balance between private rights and the public interest were adequately reflected and addressed. The DAG wished to know specifically how the division responsible for Program 17 ensured that all of these activities took into account the balance between private rights and public interest.

307. The Delegation of India (on behalf of the DAG) commented on Program 30. The DAG appreciated the number of activities taken up under Program 30 helping national Offices and SME support institutions in assisting entrepreneurs and SMEs in using the IP System. It also noted the large number of Training for Trainer programs and the regional and sub-regional fora for SMEs, including two national fora organized in India in 2010/11. It noted that the activities under this Program were an important and key contributor to the use of IP for enhancing innovation and development in the SME sector, particularly in the developing countries where the SME sector was very important. The PPR, however, appeared more of a report enumerating the quantitative indicators or achievements rather than focusing on the impact of these activities in order to measure the expected results that have been achieved. This had already been raised by several delegations. The DAG also noted that the performance data in this Program was well designed but many of the data was not available. The DAG inquired for the reasons why some of the projected activities, such as assistance to SME support institutions, were discontinued. The Validation Report of the IAOD indicated that the performance data as reported in this Program was relevant and valuable. However, the performance data needed to be strengthened with feedback to be solicited by the participants of WIPO events to SME support institutions on the impact of activities. Further, it was also stated that the performance data was not sufficient to enable a sound assessment of activities undertaken for achieving the expected result and to analyze the satisfaction level of SME support institutions. Therefore, in the future, the DAG requested the implementation assessment of the Program as these elements needed to be taken into account.

308. The Delegation of Germany made comments on Programs 20 and 23. Program 20 (External Offices): since 2010, WIPO was to look into the issue of establishing new external offices. It had been a top priority to come to a decision in the GA in 2011. The document stated that this issue was "discontinued", not followed-up. Clarification was sought as to why this issue, from being a top priority, came to a standstill. On Program 23, the Delegations raised the

issue of training. Training was valuable for the staff as well as for WIPO. One of the findings of the IAOD report on human resources was that 16 staff members out of 21 in the HR Department had had no training for the last 10 years except for languages. That raised some concerns, which might be shared by the Director of IAOD, regarding the training issue at large in WIPO. Looking at Program 23 (HR), and the last two, three, biennia it could be seen that resources allocated for training amounted to one per cent - about 4 million Swiss francs. The actual expenditure was 1.4 and 1.6 million Swiss francs. So there should be resources in the system to finance training. More disturbing fact was that the PPR for Program 23 stated that the PMSDS was aimed at identifying training needs and that actual needs identified amounted to 1,500 with no resources available to address them. The Delegation inquired when the Secretariat would address these issues, how much resources were needed and where they would come from and whether any transfers had already been made. The Organization could not wait until 2014-2-15 to address the key issue of training. It needed to be addressed in the current biennium.

309. The Delegation of the Republic of Korea drew the delegations' attention to Programs 5 and 6. The performance indicator "The number of applications" was related to the expected result "Use of the PCT system". The Delegation understood the importance of these statistics to WIPO, but noted that this indicator strongly depended on the outside factors like economic situation, innovative behavior, etc. So, an increase or decrease in the number of applications might be dependent only to a very small extent on WIPO effort. These types of performance indicators, therefore, needed to be complemented by performance data measuring actual activities conducted by WIPO. This should not be interpreted as discouragement for the use of these indicators, rather the Delegation wished to invest further in this direction. Second, the performance data for almost every program were presented in a very condensed manner. For comparison, in Annex 2 of the PPR for 2011-2012, page 139 explained the activities conducted under the FITs. The information provided there was more understandable. The Delegation inquired whether more detailed information could be made available to Member States in the format similar to the one used for the FITs.

310. The Delegation of Peru commented on Program 23 and said the PPR reported that there was a creation of 156 posts, with an indicator "number of professionals recruited from underrepresented regions". This varied between three and five. The Delegation asked how the traffic light system worked in this case: a total of six people were recruited from underrepresented regions out of 156. The Delegation added that this concerned members of GRULAC and others.

311. The Delegation of South Africa, speaking on Program 2, 3 and 4, referred to a statement in the last paragraph on page 12 that the design, planning and implementation of activities were undertaken in accordance with the relevant DA recommendations. The Delegation was of a different view because it had to request a study to take into account DA recommendation 15. It wondered how this could be reflected as true and requested clarification from the Program Manager on how recommendation 15 was taken into account when discussing a treaty for the protection of industrial design. Regarding the second performance indicator on page 13, this performance indicator referred to at least 10 ratifications but there had only been nine States becoming parties during the biennium. The Delegation asked how the performance rating could be "fully achieved" as the target was ten. Perhaps it could be rated as achieved. On Program 3, the Delegation noted, in paragraph 2, that there was no precision as regards the challenges and strategies. It noted that, in the Program and Budget 2010/11, there were consistently strategies and then challenges. In the PPR, only achievements had been highlighted, and only the achievement in terms of the VIP discussions in the SCCR. In the future, the challenges should also be highlighted, because other issues were very important as well. Regarding exceptions and limitations, the Delegation asked why there was no progress. It also requested precision in terms of language used. The Delegation said that it would appreciate if, in the future, the Secretariat could be clear that what was being pursued in terms of the protection of broadcasting was a treaty. Just like in the case of the VIP, it was an

international instrument. For the Delegation, it was a workplan towards a treaty for the protection of broadcasting organizations. It was not clear to the Delegation what was meant by “protection of broadcasting organizations”. As regards the performance data on page 18, it noted that there was only reference to performance indicators Nos. 1, 2, 3 and 4. As regards the indicator “decisions and requests resulting from the SCCR”, the Delegation requested more information because it considered it abstract to say that 20 decisions and requests for action resulting from the SCCR had been addressed. Further, the performance indicator, which not only referred to the visually impaired persons but also to the categories suffering from other disabilities, was rated as having been fully achieved. However, the performance data only referred to visually impaired persons. There was no reference to the categories suffering from other disabilities. The Delegation requested more information from the Secretariat on how this was fully achieved. Program 4, paragraph 32, Delegation highlighted its request to further elaborate the sections dealing with the implementation of the DA (similar to what appeared on page 21, for which the Delegation commanded the Program). Page 23 under Program 4 referred to vacant posts. The Delegation requested clarification on the matter because it impacted expenditure due to the posts being vacant and some being transferred. The Delegation stressed the importance of Program 4 and added that it needed to be assisted if there were problems in terms of filling posts.

312. The Delegation of Hungary, speaking on behalf of CEBS, on Program 10, thanked the Secretariat for its efforts and welcomed the various initiatives in this Program in the countries concerned, especially with regard to national IP strategies, legislative reform, modernization of IP infrastructure and IP training. It expressed its support for Program 30 on SMEs and urged the Secretariat to continue initiatives in this field, especially the efforts to strengthen the role of innovative SMEs in the CEBS region.

313. The Delegation of Egypt (on Program 20), inquired as to the status of the negotiations carried out by the Organization with regard to the external offices. It added that there was still no external office in Africa. It also requested clarification concerning the development of criteria and information about the extent to which Program 20 contributed to the implementation of development programs, particularly since the Committee on Standards was discussing the implementation of DA recommendations.

314. The Delegation of the Republic of Korea, with regard to Program 9, recalled the discussion at the fifth session of the CDIP in April 2010. Two proposals for development of technology and support for planned strategy development had been approved by Member States. At the time, many delegations had expressed the view that these projects should be limited to the mandate of WIPO and then efforts should be made to collaborate with other UN organizations or NGOs. These projects were at present either finished or in the final stages, so the Delegation requested an opportunity to learn from the experiences gained so far. Lastly, the Delegation thanked the responsible managers for their efforts in implementing these two projects.

315. The Secretariat answered the delegations' questions. The Delegation from Algeria had mentioned several points. Firstly, how one could better reflect the reality of the activities in the SCP and the related request that this type of reporting be improved in the future. The Secretariat had taken due note of this comment and request and would do all efforts in order to satisfy the Delegation in the future. Secondly, the question related to paragraph 5 on the work on legislative advice, seminars, etc. and on whether this was pursued in a balanced manner. The Secretariat explained that the work consisted of seminars, comments on draft laws and elaboration of new draft laws, missions on legislative advice, all done only on Member States' demand. The Secretariat was also asked to participate in national and regional seminars to speak on different topics that related to patents, for example, utility models, etc. The Secretariat cited an example. Recently, WIPO was requested to speak on the patentability of software. In response to the request WIPO explained the situation and gave examples of what was done in different parts of the world. It did not try to influence countries to go in one or the other direction

because this was not WIPO's role. The Secretariat recalled that one of its main objectives in this work was to try to identify how IP could be useful to an individual country or how, sometimes, it perhaps could not be useful. The Secretariat reminded that such work was done on demand only added that legislative assistance, was confidential. One of the principles guiding this work was to attempt to take into account the situation of the individual country. That was how WIPO approached the question of flexibilities as well: looking at the country and at the flexibilities a question arose and telling that country what it could or could not do. WIPO did not tell the country where to go but only showed the country, or had the country realize, what its objectives were; it presented different possibilities that the country could choose in order to achieve those objectives. Balance was extremely important. This was also evident through the work that the Secretariat did on flexibilities, both in legislative advice to countries as well as in seminars held in various countries where, as an example, WIPO did not give its position on flexibilities, but attempted to bring countries together to explain to each other how they used flexibilities and what the result of those flexibilities was so that countries could learn from each other. Sometimes the Secretariat was asked to speak on issues like open innovation, or Open Source, which it did regularly. The Secretariat added that it did not advocate for more IP but tried to see how IP in the individual case could, or could not, be useful for the objectives of a country. Regarding the third question of the Delegation of Algeria, the Secretariat said that it would have to look at it more closely. It seemed that the possible contradiction could come from the fact that, in one column there was the baseline, and that was a certain situation understood at a given point in time. When the situation was looked at two years later, the Secretariat could, or could not, identify some achievements. The Secretariat thought it was one of the reasons why different results were showing in the different columns. It added that it would look much more closely to see whether this type of contradictions could be avoided and if they were real.

The Delegation of South Africa raised a question about the nature of flexibilities, which was not easy to reply to because, again, it was an individualized matter which depended on the requests received. In principle, the Secretariat was looking at the international legal framework by which an individual country was bound. Then it was trying, depending on the country situation, wishes and objectives, to indicate the flexibilities that the country had in the existing international legal framework under the treaties by which that country was bound, how it could implement their obligations in perhaps different manner under that framework. In terms of what types of flexibilities were addressed, the Secretariat said that this depended on the demand and the requests by Member States. The second question raised was about greater awareness. This was not easy to measure. There were discussions on the way to look at this in order to make such criteria more measurable. What the Secretariat had been doing, at least in the two years, was looking at what was being done in the SCP, the CDIP, and at what was done regarding legislative advice and the legislative missions. The Secretariat hoped, although it was difficult to say whether it could achieve or not, to increase the awareness of IP through these discussions so that countries were in a better position to decide in which direction they wished to go. Finally, on the treaties, the text would allow the Secretariat to say that the improvement of one Contracting Party to a treaty meant achieved. The Secretariat agreed that this also needed to be reviewed, in particular, because whether countries adhered to WIPO treaties or not was not really in WIPO's hands. This was really a matter for countries to decide, including the length of the process that they needed to adhere once they wanted to adhere. It was probably something that the Secretariat would have to revisit for future documents.

One Delegation had mentioned that the Secretariat had to be careful not only to measure the measurable but also what was relevant. The Secretariat said that this was certainly part of the reflections already being done. The PLT was mentioned twice because it could be considered to be a part of the enhanced cooperation among Member States to a certain extent and then it had also been taken on board as a specific result. In the future, the Secretariat should avoid these doubles - there was no real good reason beyond that to have the PLT mentioned twice.

316. The Delegation of Algeria responded that to reflect reality this should be done now, in this report. It was obviously something that would apply in the future but it should also apply to this report because it was a question of taking note of the reality.

317. The Secretariat responded to comments on Program 2. Regarding the first comment from the Delegation of Algeria, i.e., the reference to the implementation of the DA and more particularly the contribution of the Program to the trademark component of DA project 16 20 01 that resulted in quite a voluminous report presented to the CDIP. Because the CDIP could not deliberate on it, it was still pending. This was why the Secretariat could not report on any follow up. This was also why the report was “as presented” and not examined or discussed. It had been presented but there had not been enough time to discuss it because of the heavy agenda of the CDIP. Concerning the second question, i.e., how to obtain more information on, in particular, one activity referred to in that report (a worldwide symposium organized by the Program in cooperation with the Government of Peru), the Secretariat clarified that all Member States were being invited to it, regardless whether it was organized by WIPO or not. They all received invitations and the program well in advance of the meeting. The program and the speakers were already on the record. The presentations made at the symposium were published on the Website, translated into several languages and compiled into a PDF document. In case more information was needed, the Secretariat would be glad to guide various delegations to the various sources. Concerning the two observations made by the Delegation of South Africa, one also referring to the implementation of the DA and, in particular, a study requested by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, to be presented at the forthcoming session of the SCT. The Secretariat recalled the history of that study. It had been commissioned at the last session of the SCT but, prior to that, the Secretariat had also prepared a background document (document SCT 26/4), that summarized the work on industrial designs and practice. It addressed recommendations and had been discussed at the 26th SCT session. Based on the general assessment, the Committee had moved forward and had asked for a more specific study on the possible effects of the implementation of the project. There had been a two tier process and quite well documented deliberation on the implementation of the DA recommendations through the SCT in the area of industrial designs. It could have been mentioned to and referred to in that document but it was mentioned in the document SCT 26/4. Finally, on the point whether nine out of ten meant “fully achieved” or not in terms of the ratification of the Singapore treaty, the Secretariat referred to the general introduction on page 1 of the document that explained the traffic light system. The methodology applied used a rating of “fully achieved” when the performance data suggested 80 per cent or greater achievement. Nine out of ten amounted to 90 per cent and this was why the rating was as “green”.

318. The Secretariat responded to comments on Program 3 and the question whether there were too many quantitative performance indicators as opposed to qualitative performance indicators in Program 3. The Secretariat believed it was a fair point and understood that there were some considerable difficulties about firstly, identifying relevant qualitative indicators and then objectively measuring them. Nevertheless, the Secretariat appreciated that it was important to have qualitative information and therefore it would do what it could to provide that information to Member States. The second issue related to challenges within the Program. The Secretariat admitted that it could be more specific in relation to the challenges which the Program was facing and added that it would be pleased to provide further information in this regard. Thirdly, in relation to VIP, and in particular whether there should be some reference in the performance data to other categories suffering from disabilities. The Secretariat said that within the baselines, the baseline for this particular performance indicator actually only referred to the visually impaired persons. For that reason the performance data equally only referred to the visually impaired persons. That being said, within the 42 countries mentioned in the performance data, there were of course certain countries that were also doing work to improve access to other categories suffering from disabilities. The fourth question related to broadcasting. According to the information in the Secretariat’s possession, the wording within the PPR was correct. In other words, at this stage, the Secretariat was looking at the workplan

for broadcasting organizations. Of course the workplan could lead to further instruments in due course. But at this particular stage, it was actually the workplan which was currently being discussed.

319. The Delegation of South Africa responded that it was hesitant to agree with the explanation given on the performance indicator. The performance indicator in the Program and Budget 2010/11, and also reflected in the PPR, included other categories suffering from disabilities. Therefore, the Delegation disagreed with saying that this was fully achieved and stated that the baselines had to change. They could be amended because events unfolded and developments happened. There should, at least, be a report on that latter part where there was a mention of other categories suffering from disabilities, because it was not only limited to VIP. Regarding the workplan for Broadcasting Organizations and that it could end up as an instrument. The Delegation said that it was very passionate about the issue of the protection of broadcasting. The debate in which the Delegation participated was about the treaty, so the Delegation requested precision when talking about the end-product of the workplan. It did not want any ambiguity as these documents were very important to it and needed to contain reliable information. It was already decided that it was a treaty. That was the point that the Delegation wished to emphasize.

320. The Secretariat agreed with the points made by the South African Delegation. It said that it could provide further information in relation to other categories suffering from disabilities. Secondly, in relation to broadcasting, it was correct that this was what the Secretariat was working towards and added that it could be more specific in relation to that particular point.

321. The Delegation of the Republic of Korea requested clarification on the current emerging issues on copyright. The third performance indicator referred to the number of co-authored papers. The Delegation wondered why the Secretariat had chosen this indicator rather than just the number of papers.

322. The Delegation of Brazil took note that the Secretariat would try to improve the qualitative analysis or qualitative assessment for the next PPR exercise. It added that there were a number of indicators relating to the number of meetings, decisions and conferences. One possible way to explore qualitative information was to give some feedback to Member States on the content of these meetings and seminars. It was important for Member States to know not only the number of activities being carried out, but also what was inside the concept of these activities.

323. The Secretariat, in response to the Delegation of the Republic of Korea, said that the reference to co-author was meant to be a precision. It did not necessarily mean that the word could not be taken out but the idea was to try to provide some specificity about the papers involved. The Secretariat also thanked the Delegation from Brazil for the constructive comment, which it duly noted and would make sure that it was taken into account in the future.

324. The Secretariat responded to the questions regarding Program 4 and the question and comments made by the Delegation of Brazil on behalf of the DAG. The first comment related to the first paragraph in the text of the PPR. The Secretariat apologized if the text gave the impression that the Secretariat was trying to take credit for the achievements of Member States. This had not been the intention. The Secretariat wished to reflect positive developments in that respect and the positive reality thanks to the efforts undertaken by all Member States and all members of the Intergovernmental Committee. In a way, this was also related to the way the expected result and the performance indicator (the first one on page 22) were phrased. The expected result talked about stronger international legal and policy framework protecting TK and TCEs. The performance indicator talked about an adoption of an international instrument. This was certainly far beyond the capacity of the Secretariat. In this respect, one might say that the PPR even measured the performance of Member States, which so far had been very good and thanks to Member States for that. To the question related to the content of technical assistance

activities, the Secretariat responded that all technical assistance activities were demand driven. There was no “one size fits all” approach. It depended on the needs and requests of individual Member States. With regard to the legislative advice, some examples were provided on page 21, for example ARIPO. With regard to other capacity building activities, another member of the Secretariat (Mr. Wendland) would provide more illustrative examples. However, the Secretariat was not pushing any specific approach there. Nothing had emerged on the international level which the Secretariat could promote specifically. The work was focused on building local capacity, providing options, identifying issues that would have to be addressed if a country decided to strengthen its protection framework for traditional knowledge and traditional cultural activities. Responding to the question raised by the Delegation of South Africa (vacant posts referred to on page 23), the Secretariat said that this was not a reflection of any specific problem. It was an indication why some of the funds were not fully spent in the biennium. The fact that a post was vacant in the beginning of the biennium resulted mainly from the fact that a new Director, Mr. Wendland, had been appointed early in 2010. Also, a small restructuring in the Program had taken place, which did not lead to any reduction in efficiency.

325. Another member of the Secretariat explained that the assistance activities comprised four main kinds. The Secretariat said that it made a lot of presentations to delegations coming to WIPO meetings and at meetings outside of Geneva. Last year, for example, it had made 60 different presentations to various groups. It also provided assistance to countries that were seeking advice and assistance in developing national policies and national laws. It organized larger events, regional and international meetings such as the meetings in St. Petersburg, Muscat and New Delhi, mentioned in the PPR, and it offered training courses as well. As had been pointed out, this was an unsettled area and the Secretariat was deeply conscious that there were very diverse views on the issues. The Secretariat’s efforts were factual and descriptive and that it was trying to build capacity, by identifying the issues and the options, and nothing more than that.

326. The Delegation of South Africa inquired, for future reference, when referring to post vacancies was it clear how many were being referred to? In other programs posts had also been cited without indicating the number. The Delegation said that it would appreciate it if this Program could also indicate that for future purposes.

327. The Secretariat confirmed that the point well noted.

328. The Chair invited the Secretariat to respond to the question on Program 5.

329. The Secretariat responded to the question from the Delegation of the Republic of Korea, (whether the PCT record copies should be considered a performance indicator as they were reflected in the relevant table on page 25 of the report). The Secretariat believed that the Delegation of the Republic of Korea was right. Record copies were not really considered performance indicators. In the annex, page 29 stated “as background for the performance indicators, it is useful to consider the evolution of [inter alia] PCT workloads”. Therefore, the Secretariat had included the record copies just as background information. They were not performance indicators because WIPO did not control the number of record copies that came in. They had “crept” into the table under the heading “performance indicator”. Upon reflection, perhaps that should not have been the case. The Secretariat agreed that they were not technically speaking performance indicators. They were provided as background information.

330. The Delegation of South Africa inquired as follows. On page 26, the first performance indicator, referred to regular contents with PCT applicants worldwide. All regions were identified except for Africa. The question was whether there was no contact with the African region. Under expected result two (and the third performance indicator) the delegation noted that the figures were in percentages. The Delegation requested that, in the future, the exact figures of the number of respondents also be given. At present, with the percentages, it was unclear how many people responded. On page 27, the second expected result, the performance data

related to the second performance indicator read “Delegations of Member States represented at the 2010 and 2011 sessions of the PCT Working Group expressed their appreciation for the preparatory work for the sessions by the Secretariat, including the informal briefing sessions held in the run-up to the meetings, and for the quality of the working documents submitted for the consideration of the Working Group”. The Delegation wondered if this qualified as performance data since this was being done all the time. At a session, appreciation was being expressed to the Secretariat for preparing documents. It asked whether this meant that it had to fall under performance data and be considered fully achieved. This could, in fact, be replicated in all programs. The Delegation also noted that, on page 28, it said that some of the funds had not been used because of the departure of a number of staff through the VSP. The Delegation requested further details on how many PCT staff had left.

331. The Secretariat responded that the specific performance indicator talked about regular contacts with PCT applicants worldwide. This covered only applicants. It added that the Secretariat had many contacts with Africa in terms of capacity building and training in the context of the PCT, but this indicator talked purely about applications filed by companies and individuals. The Secretariat did know with certainty whether there was not a single contact with an African applicant and would have to verify that and come back with the information. The main point was that this was specifically focused on individuals and companies that filed applications and in no way implied that there was no contact with Africa in terms of the PCT. The Secretariat placed a great emphasis on creating the right relationships with the African countries so that everybody engaged in the PCT process could correctly evaluate its usefulness and its advantages and disadvantages. If there was precise information required, the Secretariat was ready to come back to the issue later in the afternoon or the next day.

332. The Delegation of the Republic of Korea agreed to use the current performance indicator to measure the performance conducted by WIPO. It highlighted that WIPO should take the responsibility to increase the use of PCT applications so that more people could benefit from the global system operated by it. In this regard, as mentioned earlier, in the performance data, more information could be provided, including on customer service announcements, promotional activities, etc.

333. The Secretariat continued to respond to the questions from the Delegation of South Africa. Regarding the feedback from Member States on the quality of the proposals, the Secretariat believed that this was a valid point. The Secretariat worked actively with the PCT Working Group and colleagues had struggled for a long time to come up with a meaningful performance indicator to try to capture whether the work at these Working Groups succeeded or did not succeed. Of course this tended to be a challenging process with many policy and sometimes political issues. It was very hard to define a performance indicator that would capture whether something had gone well or not. Because it was so difficult this one was inserted. There could be difference of opinion whether it was really meaningful or not. The Secretariat further clarified that this was definitely one of those indicators that could be repeated across all Programs and with the same performance data on them. In the 2012/13 Program and Budget the indicator was not there anymore. Its replacement looked much more at measuring what enhancements were actually being made.

334. The Secretariat continued to answer the remaining questions. There was a question regarding how many people left the PCT through the VSP. The Secretariat did not have the precise answer at the time and offered to check on the figures and come back with the answer. It added that several staff had left. Referring to the last point raised by the Delegation of South Africa (presentation of the third performance indicator, second expected result - where in addition to the percentages it would be useful to have exact figures), the Secretariat clarified that that this would be included in subsequent PPRs. The Secretariat responded to the question from the Republic of Korea and said that the answer would be in next year's PPR, because in this year's PPR the focus was very much on the IB operational part. It said that it should look broader at the performance of the PCT system. As the methods and the

methodologies matured, in the next version of the Program and Budget there would be a number of what the Secretariat believed to be meaningful indicators to judge how the system was evolving. The Secretariat would be very interested to know if the new version would meet the Delegation's concerns.

335. The Chair invited the Secretariat to respond to the comments on Program 6.

336. The Secretariat welcomed the comments from the Republic of Korea and added that it would certainly consider those comments as it continued to improve performance indicators and, indeed, as it learned more about the RBM. In the meantime, the Secretariat wished to point out that more granular performance information was provided in the Annual Summary Reports produced for both Madrid and the Hague and that information was updated monthly on the respective websites.

337. The Chair invited the Secretariat to respond to comments on Program 8.

338. The Secretariat responded to the first question in respect of the brochure on the DA. This brochure had been prepared by the Secretariat and had been presented in November 2010 at the meeting of the CDIP. Some brochures were still available and could be provided to delegations. The second question related to the performance indicator reporting that all WIPO activities were undertaken in line with DA principles. This was, of course, work in progress, but this performance indicator related to that particular Program as opposed to the whole Organization. As far as the DA Coordination Division was concerned, their responsibility was to ensure, in the drawing up of the Program and Budget document and also the PPR, that all activities in all of the other programs within the Organization integrated the DA principles within them. This also applied when evaluating the programs as reported in the PPRs, ensuring again that, in evaluating them, the DA principles were incorporated. This had been done systematically. As far as Program 8 was concerned, they had fully achieved what they were required to do.

339. The Delegation of South Africa referred to page 47 regarding the postponement, until the next biennium, of the international conference on the integration of development into IP policy making. The Delegation understood that this conference was likely to take place the following year. It sought clarification as to the exact amount of resources earmarked for this conference.

340. The Secretariat responded that there was no specific amount earmarked for the international conference, but sufficient resources were available within the Program.

341. The Chair invited the Secretariat to respond to comments on Program 11.

342. The Secretariat responded by first addressing three issues raised by the Delegation of Algeria. The first one pertained to the process of inclusion of the DA content or recommendations within the courses or training programs organized by the Academy. In this respect, there were at least three areas: professional training, distance learning courses and master courses with universities. As regards professional training, activities were organized together with partner institutions. In WIPO contribution and in what was requested from WIPO partner institutions was the systematic inclusion of the different set of principles included in the DA. In connection with the distance learning courses, the Secretariat had started the process in 2010-2011. It was centered on the learner and was run together with tutors. The Secretariat relied on the interaction between tutors and students. This allowed development of the content material that was being included by an expert as a model for a distance learning course. The Secretariat had started with the courses on copyright, the advanced copyright course, trademarks, patents and patent search. The Secretariat was still in the process of developing the content material so as to include it in the distance learning courses. Regarding the masters programs, different elements were included that could be linked to the DA, such as the economic impact of IP, flexibilities, public domain, new ways of licensing works, issues related

to the protection of TK and folklore, access to patent information, etc. The second point raised was the question regarding the satisfaction of participants. It was the first performance indicator. The Secretariat was using evaluation forms that were given to the students in the professional training programs, master programs, distance learning courses and summer courses. At the end of the course students provided information on the level of satisfaction. This was how the information was collected. The third point was linked to the fourth expected result i.e., increased geographical representation of key cooperation partners at the network of IP academies. During the period under review, three new partners had joined the network of IP academies: the Centre of IP Education of Macedonia, the Nigeria Copyright Institute and the Pakistan IP Office.

343. The Delegation of Oman inquired as to the coverage of the courses, distance learning and the increase in the number of modules being proposed in the various languages of the Organization. As far as coverage was concerned, it was stated that the objectives had been achieved. However, some of the programs had not yet been translated into Arabic. The Delegation sought clarification on how the translation of these courses into Arabic, in particular, had progressed. Commenting on the cooperation between the Sultan of Oman and the Academy on a number of courses, including a course organized in Arabic for the first time with Oman, the Delegation wished to see further developments in the future so that these courses were extended to all countries that required them, particularly through the means of remote teaching, which made it possible for many institutions and enterprises to participate in them.”

344. The Secretariat clarified that there were 13 distance learning courses. Some of them were short, some longer. It could be a few hours or 50 hours or 100 hours, so the content differed. There were six UN official languages. The Academy had been, and still was, in the process of updating the courses in accordance with the DA. The policy was to update courses every two years. Taking this into account, it was a massive amount of work to keep the content of distance learning updated and available in different languages. Additionally, new content was being developed. In the biennium 2010/11 (as is indicated in the performance indicator) four new courses in new languages had been translated and the DA-101 was now available in Arabic. A priority for the translation had been established for the courses according to the use of the languages. In this process, the Secretariat identified languages which were more used, to prioritize the translation of the courses. As a result, the Secretariat was at present advancing with the translation of the courses into Arabic. This process had started in 2010/11 and was currently ongoing. It should be acknowledged that it was extremely difficult to keep all the courses updated in all languages at all time.

345. The Delegation of the Republic of Korea commented that it sounded like Program 11 provided sit-down training courses. It inquired whether these courses were interactive.

346. The Delegation of South Africa pointed out to page 68. Under budget transfers, the Delegation wished to understand the rationale for the reduction of short-term employees. It inquired whether there was no need for additional staff or whether the short-term employees had been regularized.

347. The Secretariat responded that all the courses were quite practical and interactive, with dynamic forums facilitated by tutors. In the forums, the practical needs or cases that the participants themselves had, were discussed. It was not a course where one was read a text. It was extremely lively. In the model platform, there were forums created for each of the chapters of the models. A participant could upload or download different kinds of individual text content that was linked to the training material so the discussions were extremely lively and completely linked to some of the specific projects that people were facing.

348. The Delegation of the Republic of Korea asked of there were any training programs where participants were given lectures and then completed assignments as homework while applying the principles given during the lectures.

349. The Secretariat specified that there was, in the face-to-face training activities, a practical training in the Office in different fields of the IP administration. There was also one specific course that was linked to the development of a specific IP development project for a country. This course was organized together with the Swedish Government and was divided in two segments. The first one contained a broad explanation on how to design a project linked to the development and IP in a developing country or an LDC. Eight months later, when participants had been able to start the implementation of their project, experiences among all the participants of the courses were shared in terms of the challenges encountered, new developments, achievements, etc. Responding to the question from the Delegation of South Africa about the difference in the budgeted and the final expenditure as regards short-term staff, the Secretariat said that the difference was due to the fact that some of the short-term personnel initially budgeted could be regularized during the biennium.

350. The Delegation of Oman stated that it was fully aware of the difficulties involved in translating all the present courses in the distance learning program. Nevertheless, it wished that the Secretariat take into account the quality of these courses. The courses made it possible to communicate with all societies so that they have a greater understanding of the subjects covered by these courses and therefore the courses needed to be translated into all of the languages and should receive necessary financial backing for that purpose.

351. The Secretariat was in agreement with the Delegation's comment. There was a policy to translate the courses not only into the UN official languages, which would be the case of Arabic and which was a priority for translation, but also to other languages in which Academy's courses had already been translated e.g. Portuguese, Croatian and Vietnamese. The specific translation into Arabic and Ethiopian had been started. The Secretariat added that it was extremely concerned and focused on translating the context of the distance learning courses into other languages, also beyond UN languages to facilitate the access to everybody.

352. Another member of the Secretariat further clarified that under the language policy of the Organization, the six languages of the UN, including Arabic, had an equal standing. In distance learning, the Secretariat attempted to make available all the models in all of the UN languages. Of course, the more courses in Arabic were offered, the more persons in the Arab world would be interested and would connect with WIPO distance learning, which was not driven by Member States but by the market, the Internet. Indeed, in order for more persons to use the system in Arabic, the Secretariat needed to make sure that the content was also available in the Arabic language. This was, as usual, an issue of resources. The Organization also had requests to go beyond languages of the United Nations system, which it did. The first objective was to complete all available models, the standard models in all languages. Whenever the content was updated, it was a constant exercise to try to keep it up to date in all languages. This biennium, hopefully, the Secretariat would do better, in the sense of putting at the same level more and more models in terms of language diversity.

353. The Chair opened discussion on Program 17.

354. The Secretariat said that two questions had been raised by the Delegation of Algeria on behalf of the DAG. The first related to the paragraph which described the work in the Advisory Committee on Enforcement (ACE), where the Delegation was not in agreement with the way the last sentence of the first paragraph was phrased, which said that the agreement to continue the work underscored WIPO's efforts as well as the commitment of Member States to nurture an inclusive approach in WIPO's activities related to building respect for IP. It was correct that various proposals for future work had been discussed at the last ACE. In the end, an agreement had been reached to continue work on the basis of the work program established at the sixth session. This work program had been considered, was still being considered as a balanced work program which took account of the various concerns of all Member States including work on statistical data. Also, it included work on the consumer motivations as well as alternative efforts to combat counterfeiting and piracy. So, in a way it was perhaps too

diplomatic a way to describe the situation in the ACE. The Secretariat thought that it still was an accurate description, while being a diplomatic description of the situation in the ACE. It added that it would be happy to consider alternative proposals to phrase that. With regard to the question concerning technical assistance, the question was more specifically on how the technical assistance activities were taking account of the balance between private rights and the public interest. As a general statement it was correct to say that technical assistance was obviously demand driven; it was not one size fits all; it depended, in each case, on the individual requests and also the situation of the individual Member State. What the Secretariat provided was always just issues and options without pushing any specific agenda. For example, when providing legislative advice, the Secretariat provided the requesting country with the options that were available, including of course all of the flexibilities which were provided under Section 3 of the TRIPS Agreement. With regard to the meetings organized together with Member States in the relevant countries, the Secretariat proposed to Member States to include items which were also very much discussed in the ACE. This included items such as statistical issues, statistical means of measuring the scope and impact of counterfeiting and piracy, consumer motivations for the reasons behind counterfeiting and piracy, flexibilities issues such as strategic cooperation among agencies but also the involvement in the way the rights holders participate in the enforcement processes.

355. Another member of the Secretariat commented that the previous speaker had succinctly described actions taken in the awareness and education and training programs. The Secretariat tried to bring in the whole concept of growing respect for IP and relied on the discussions and information from the ACE. It began by describing how to achieve an enabling environment within which to respect IP rights. Each and every issue would be discussed in a balanced way, e.g. the disposal of goods and would rely on the discussions in the ACE and look at the possibility of charitable use, if possible. Otherwise, options would be considered and proposals made for recycling or eco-friendly, environmentally friendly disposal. For this reason connections would be made with members such as the United Nations Environment Program (UNEP) to see to what extent one could cooperate and give guidance rather than just making bonfires and destroying the goods. The rationale was always to take into account and to give effect to the spirit of the recommendation 45 of the DA.

356. The Delegation of Algeria responded by thanking the Secretariat for its clarification and said it was pleased with the response to its second comment. It realized that it was at the request of Member States that a particular seminar or other event was organized. With respect to the response to its first question, the Delegation continued to think that the way paragraph 1 had been presented, in particularly the last sentence, did not actually reflect the situation in the ACE. The current work program, as it recalled, was followed more or less. But it was not really an indication that the members of the Committee were fully satisfied. They simply managed to reach agreement to continue with the work of the Committee. The Delegation said that it would, therefore, ask the Secretariat for a more factual presentation of the situation. In effect, the Committee continued to work on the basis of its work program as approved at the sixth session and would consider developing a new work program because that would be a better reflection of the actual situation.

357. The Delegation of Oman wished to comment on the awareness of IP. It said that Member States were currently cooperating with WIPO in order to develop a strategy on IP and creativity. On the basis of experience, it had been seen that it was quite important to teach the concepts of IP in schools. For that reason the Delegation believed that it was important for the Organization to develop a project to teach IP in programs that would be taught as of primary school level, because the children of today were the adults of tomorrow. If these concepts were instilled in them early enough, it would have a positive impact on the future, even if that requires a great deal of time. The Delegation felt that, in that, in this way, the concept underlying IP would become very much anchored in the minds of children as they move toward adulthood.

358. The Secretariat said that, in response to the comments of the Delegation of Algeria, it would take a look at the sentence and propose a redraft which was more toned down. The Secretariat also wished to take this opportunity to encourage all Member States to prepare for the discussion on future work at the next ACE session, which would take place in late December. The item would again be on the agenda and Member States would also be judged with regard to the work of that Committee. Therefore, all Member States were encouraged to prepare for that. Regarding the suggestion of the Delegation of Oman, concerning awareness raising, including for primary school children, the Secretariat thanked the Delegation for its proposal and said that work would certainly continue in this area, which it had already been to a certain extent. With the support from the Republic of Korea, a video with a character called Proro was currently being prepared, which was specifically addressed to school children of that age.

359. The Delegation of the United States of America appreciated the Secretariat's presentation and its response and said that it was having some difficulty following the request of the Delegation of Algeria. The Delegation thought that the last sentence in the first paragraph was a fairly concise and accurate reflection of what happened in the ACE. It would welcome any proposal and would look at whatever the Secretariat had proposed. It thought that the paragraph reflected the outcome of the ACE. The Delegation noted that there were a few difficulties in moving forward on discussions on future work and this was accurate.

360. The Delegation of South Africa wished to thank Program 4 for actually providing the link between the DA and the Program's activities. This was clearly articulated on page 83 on the implementation of the DA. The Delegation wished to follow up on the first question from the Delegation of Algeria on behalf of the DAG, on the performance data on page 84 in relation to the issue that relates to the sixth global Congress, and that this debate was brought onto an international stage between private rights and public interests. The Delegation wanted further clarification, as it had participated and did not recall such interaction to that extent. It also remembered that there had not been participation of consumer organizations. However, the performance indicators made reference to the participation of civil society and other interested organizations. This was not clear to the Delegation. It understood the inclusion of industry and, to a certain extent, government but sought clarification as to whether participation of civil society and other interested organizations was actually achieved. The performance rating indicated that it was fully achieved and, indeed, the Congress had been hosted but clarification was needed in terms of the panels, especially because the panels were very important in the discussions.

361. The Secretariat responded that the topic of the global Congress was building respect for IP. That already reflected, for the first time, a broad and more inclusive approach. In addition, all the panels that had been championed by WIPO were also reflective of the issues in line with the DA Recommendation No. 45. One panel had dealt with the issue of IP enforcement and sustainable development, one with issue of corporate social responsibility, another one with competition issues. In all these sessions, a balanced approach of the panels had been ensured.

362. Another member of the Secretariat further recalled that in each and every panel, there had been a completely balanced approach, e.g. in the panel on ACTA it had been ensured that the concerns of the developing world were well articulated with the assistance of India, who had provided an expert. It was a very ambitious task to find agreement with diverse partners to make sure that each panel reflected balance and a 360 degree viewpoint. It was not possible to mention directly the civil society representatives of but this was now changing. In the previous biennium and before, there had been problems getting cooperation from consumer groups to attend activities. It was a priority to make sure that there was balance and all-around approaches. The Secretariat could liaise with Member States, for example, to help in the future in this regard.

363. The Chair invited the Secretariat to respond to question concerning cooperation with Africa in Program 5.

364. The Secretariat recalled that the question related to the first performance indicator on page 26 and the lack of reference to Africa. Did this imply there was no contact with African applicants or potential applicants during the period? The answer was that there was actually quite a lot of contact. Looking at the figures, during the relevant period about 17 seminars had been organized in Africa where users attended. These users would typically be inventors, attorneys, companies, entities who were using the PCT or planning to use it. The legitimate question was why this was not mentioned in the performance data. The explanation was a coordination issue on the Secretariat's side. The seminars in Africa were organized by the International Cooperation Division. The performance indicator "regular contact with PCT applicants worldwide" was handled by the Legal Division. The Secretariat did not put the two together. Because the meetings were organized by the Cooperation Division they were not mentioned. This was of course unfortunate and the Secretariat apologized for this lack of coordination, which would be rectified in future.

365. The Chair requested the Secretariat to rectify the report and invited Secretariat to respond to the question regarding Program 20.

366. The Secretariat stated that there were two interventions on the issue of External Offices that morning. The Delegations of Germany and Egypt had intervened on the subject. The Secretariat recalled that, over the last couple of years, several WIPO Member States had expressed an interest in hosting External Offices. But, in the absence of a policy, the matter had been discussed in the 2010 GA for guidance. It had been agreed at that Assembly that a consultative process would be initiated with Member States. In accordance with the decision of the Assembly of 2010, the Director General had held two rounds of consultations with Ambassadors and Member States. The first meeting had been on December 13, 2010, the second on the June 16, 2011. At the GA discussion it had been agreed that as part of the consultative process, focus would be placed on what needs and purposes may be served by these External Offices. What functions should External Offices perform? And what was the cost-benefit analysis of performing those functions through external offices compared to performing similar functions from headquarters? Clearly, the evolution of a policy and the establishment of external offices was a complex process that would require extensive consultations with Member States. In the course of the two consultations mentioned, the Director General had informed Member States of his intention to examine the ways and means to enhance the role of existing WIPO External Offices (in New York, Rio de Janeiro, Singapore and Japan), particularly with a view to improving the services that they provided. In this context, the Secretariat was pleased to inform Member States that the Director General had started a regular process of consultations with all these External Offices and, to date, had held four video conferences with the Offices; the last being last week. The Director General intended to remain actively engaged with the External Offices with the view to reaching conclusions on how to improve their functioning. Also, in keeping with the commitment that the Director General had made during the course of his consultations with Member States, a 24-hour customer service had been launched in July this year. Ambassadors had been informed of this service during the briefing on the SRP later. In simple terms, the 24-hour customer service basically meant that, from anywhere in the world, at any given time, WIPO customers would be able to access some basic information about WIPO and the Secretariat had been making efforts to improve this service. This was the current state of play on this matter. At the end, WIPO needed to be cognizant of the current economic environment in the context of establishing new offices. Of course, the matter remained in the hands of the Member States for advice and guidance.

367. The Chair said that the current state of play was unclear as regards the process and criteria for selecting these offices. There had been meetings in 2010 and in 2011. The Chair asked for the latest news on this issue and the situation, and asked if there were any studies.

He remembered that, at a certain stage, there had been an effort to get Member States' criteria, etc., and this ebbed down.

368. The Secretariat explained that it was quite clear that it would continue to have to consult with Member States and that the interim period since the last consultation had been utilized, as mentioned, on the video conferencing, in trying to understand what exactly was the role and the services that these offices had been performing. The Director General would, in the near future, convene a meeting of Ambassadors and would continue the consultation process.

369. The Delegation of Egypt sought clarity on the last statement made, that Member States had to take cognizance of the current economic situation with respect to the new Offices. Was it to be understood from this statement that the Secretariat had already taken a decision that the current economic situation was not conducive to opening new Offices, or it meant that the issue was still open for consultation? The second aspect was that the current economic situation was only one consideration among others. The Delegation inquired as to the other considerations elaborated on in the WIPO document in this regard.

370. The Delegation of Germany explained that the reason it had raised the question was to seek clarification whether there had been some development on this issue, because performance rating indicated "discontinued". The Delegation thought that the performance rating should rather have been marked in yellow or red.

371. The Delegation of Algeria wished to be sure that it had correctly understood the state of progress of the project relating to the creation of a new office. It understood that the Secretariat was in consultations with Member States. It inquired as to the content of these consultations; and what questions had been asked by Member States. The Delegation added that, personally, it had not been associated with any consultation on this topic. The Delegation said that it had, several times, indicated its interest and would welcome an external office of WIPO in Algeria.

372. The Secretariat, responding to the Delegation of Egypt, assured that it would never take a decision on the matter without the guidance, consultation and the advice from Member States. It would be a Member State decision. There was no question of the Secretariat taking any decision. The process was ongoing. The Secretariat agreed with the Delegation of Germany that the performance rating should not have been "discontinued". It was definitely still evolving and should not be discontinued. Responding to the Delegation of Algeria, the Secretariat said that it was not in any consultation on the one-on-one basis. What the Secretariat had meant by saying "consultations" was that there were open consultations to which all WIPO Member States' Ambassadors were invited. There had not been any one-on-one consultations and the Secretariat was not at the stage of drafting any documents. There was no information to be shared at this time.

373. The Delegation of South Africa inquired when the last consultations among the Ambassadors had taken place because the discussions at that level were about developing a policy on External Offices.

374. The Secretariat replied that the last meeting had been on June 16, 2011, and, prior to that, on December 13, 2010. During that meeting the Director General had said he would try and check out the kind of services the existing offices were providing, trying to explore the ways and means to improve those services, to enhance their role, which the Secretariat was doing through our regular video conferencing with these offices. There had also been a commitment to provide a 24-hour customer service, which had been done and that was what was happening in the interim. There had not been the next round of consultations. That was what should happen at an appropriate time.

375. The Delegation of Algeria pointed out that it still had no answer as to the content of these consultations. It requested the Secretariat to inform members, on a preliminary basis, what

came out of these consultations, e.g., whether it was know where an office could be opened or not.

376. The Secretariat explained further that the consultations were open consultations, with Ambassadors, where the Secretariat received advice from Ambassadors on various issues. If the Delegation wished to know the detailed interventions, the Secretariat could provide the written record of these meetings. The Secretariat could not recall what each and every Ambassador had said. Of course, the discussion had been about locations, what would be beneficial, what would be the costs involved and what would be the geographical breakup. These were the comments that came up during such consultations.”

377. The Delegation of South Africa thanked the Secretariat for the reply and wished to know when a decision on the policy itself was likely to be taken, as the issue had been coming up for quite some time. It had been elevated to the ambassadorial level, with the last meeting held in June 2011 i.e., over a year ago. The Delegation said that the policy had to go to the right intergovernmental fora, so that Member States could start discussing its contents. That was what the Delegation was interested in, not only discussions at the ambassador level and asked it was likely that Member States could do that.

378. The Secretariat replied that it was not be in a position to provide the exact timing on when the policy would be finalized, but suffice to say, it would be finalized, it would be evolved and finalized and approved by Member States. The Secretariat added that it would get back to members on the next steps that it intended to take. However, it reiterated that it was not in a position to say exactly when the policy would be finalized. It was part of a consultative process. The consultative process could take its own time. The Secretariat would revert to Member States and would seek guidance from them.

379. The Chair invited discussion on Program 22.

380. The Secretariat responded to the point raised by the DAG on the participation of Member States in the elaboration of the Program and Budget. It recalled that, in 2006, a mechanism had been put in place to involve Member States in the elaboration of the budget. This mechanism consisted of the questionnaire sent to the Member States for their input, which was taken into account in the preparation of the first draft of the Program and Budget. This was followed by a series of briefings. Following the establishment of this mechanism, the Secretariat had also put in place several tools, for example the Q&A, which was a way of informing Member States and facilitate their participation in the budget process. Another point related to the need for more clarification on development expenditure. Currently, the Secretariat relied on the existing definition of development expenditure. This subject would be taken up under agenda item 9. The Secretariat wished to reassure Member States that it always tried to involve Member States more and more in the budget process. All input received from Member States in this respect was very appreciated and the Secretariat tried to take it into consideration extensively.

381. The Chair announced discussion on Program 23.

382. The Secretariat responded to the questions related to training and the use of additional posts created to accommodate temporary staff. Concerning training, in 2011 some 920,000 Swiss francs had been allocated for training. This represented just less than half a per cent of the total amount that was spent on salaries. For this amount, for about 1,680 staff, 20 units had been delivered to staff. That meant that some people had more than one training, while others had none. It had covered a range of different training topics and was broken down into strategic and corporate training. The individual training needs were identified through the performance management system. There had been some job and career related training. What the 920,000 Swiss francs allocation did not include was training that had been allocated, for example, for IT or for special projects. The Secretariat thought it needed to do a better job in consolidating these amounts to give a more comprehensive picture of what was invested in

training and who benefited from it. Regarding the question about the 156 posts created to accommodate long serving short-term staff: the Secretariat recalled discussions held in 2010, that WIPO had grown a problem internally by having a number of staff on very long-term short contracts, which did not attract benefits. Effectively, there had been two categories of staff: the one who had all the staff benefits with the salary and dependency benefits and the other which did similar type of work but had not had those benefits. In order to remedy the situation, the CoCo had agreed that WIPO should establish 156 posts, over a five-year period, starting in 2012. So, 30 posts had been established in 2012 and of these, 18 had already been filled and 12 were in the process of being filled. Some were currently advertised. Others would be advertised. The same would be done in 2013, until the problem of these long serving temporary employees was resolved. There was a comprehensive document on this matter providing the details and background. The establishment of the posts had nothing to do with the issue of geographical balance, which was another matter that had to be addressed. When Member States looked at the performance indicators they would see that the Secretariat had undertaken to hire a certain number of staff from Eastern Europe and Central Asia. This had been achieved only partially. More work needed to be done in 2013 in respect of geographical balance. In this regard the HR Department's capacity would be augmented as quite a lot of research, targeted interventions and monitoring was needed to achieve it.

383. The Delegation of Germany opined that the key issue was the 1,542 training needs identified through the PMSDS followed by the information that there were no resources to address these. It asked how much it would take to address this issue and where the resources would come from. There was the possibility of transfers as the Organization could not wait until 2014-2015 to settle this issue.

384. The Secretariat responded that the training might be groupable; it doubted that training needs could be equated to training one-on-one. There could be training intervention which addressed several needs.

385. The Delegation of Peru's point of concern was the issue of geographical balance and the work needed to achieve it. It inquired what plans were in place to work with Member States to achieve geographical balance. Following on from that, it seemed that members were acknowledging that there was an absence of clarity about this issue. The Delegation wondered whether there was any intent to clarify it.

386. The Secretariat responded that one of the first things that would be needed was to come up with the human resource strategy that would include the issues of geographical balance. This did not exist at the moment and needed to be done in a consultative process and the Secretariat would have to revert to Member States with answers."

387. The Delegation of Germany stated that it was not totally happy with the conclusion that "we have to wait until next time". Member could not wait. At least, the Delegation requested the Secretariat to include this question in the Q&A for this session and not for the PBC next year.

388. The Secretariat explained that what was important was that the PMSDS allowed understanding what needed to be done. It also allowed the Secretariat to group training needs. Emphasis was placed on group training rather than individual training. There were different pockets where funds were available. Sometimes it was IT-related training. Other training might be very specific training or others lent themselves for grouping. It was a question of getting the requirements together and prioritizing, with the funds available, to ensure that the maximum number of training needs was covered. Of course, it was not a perfect solution. Nobody was saying everything had to be done for everybody. There certainly were persons who might not be able to get the training that they required. The important thing was that they were recognized and addressed. That was the intention and that was what the Secretariat was trying to do. The Secretariat thought that it would get there and that it would be part of the new human resources strategy.

389. The Delegation of Egypt and the African Group congratulated the new HRMD Director and wished her well in her task. It endorsed and supported the statement made by the Delegation of Peru on the principle of geographical distribution. This was important for Africa and the Delegation would appreciate it if, as part of the next reporting on this, more information and an indication of how this principle was being observed was given to Member States. Regarding the section on the implementation of the DA recommendations, the Delegation mentioned a reference, as part of progress or achievement, to the development of the WIPO code of ethics. In this regard, the Delegation referred to the joint proposal by the African Group and the DAG on a code of conduct. It said that it would appreciate if this issue was explored by the new Director.

390. The Delegation of Pakistan stated that the new director of the HR department had raised hopes a lot with regard to the new HR strategy, which it foresaw to be developed. The Delegation also understood this was going to take care of a lot of issues that had been raised during the course of the last few days in the Committee. Specifically, coming back to what the Delegation of Peru had mentioned, as supported by the Delegation of Egypt, the Delegation of Pakistan also believed that it was important that the issue of geographical balance or distribution was adequately reflected in the performance indicators. It believed that it was very important that there was a track of how things were developing in this regard. The performance indicator would be one of the tools by which it would be possible to keep track.

391. The Delegation of South Africa thought that there were developments on one of these performance indicators, but was not clear as to what those developments were. It noted that an indicator "distribution of staff according to years of tenure", page 112, had been discontinued,. The Delegation sought clarification on this indicator.

392. The Secretariat clarified that there might be a slight confusion about the use of rating "discontinued" in the traffic light system. It referred to page 1 of the document. The "discontinued" label was used in two cases: either when the performance indicator was deemed not a good performance indicator after all to measure performance, or because the performance data on the indicator was not available. One issue raised earlier in this respect was in Program 30 and in Program in 21. It did not necessarily mean that the work had not taken place. For example, in the case of SMEs, it did not imply that the work on supporting SME support institution had not taken place. However, it had not been possible to obtain the performance data as regards the satisfaction of the SME support institution on the performance indicator which relates to this particular result. The work however had taken place.

393. The Delegation of South Africa thanked the Secretariat for the clarification and said, however, that the question was related to the specific reason, in this particular case, for discontinuing the indicator

394. The Secretariat said that it would need to look into what the exact reason was for discontinuing the indicator and revert to the Committee.

395. The Chair opened discussion on Program 27.

396. The Secretariat responded to the questions raised by the Delegation of Spain about savings or under utilization of resources during the biennium 2010/11. There were three main reasons for under utilization of resources. One, the amounts to be paid to CIGC for organizing a few meetings had been overestimated. Because those amounts were not required, there were savings on that front. The second reason, as mentioned in the PPR, was that we had undertaken some negotiations with companies responsible for mailings. As a result, it was possible to bring down the prices by 18 per cent which resulted in some savings. The third reason relates to the adoption and implementation of computer-assisted translation tools (CAT). As Member States were aware, during the biennium 2010/11, WIPO was considering a new language policy in consultation with Member States, the entire process of which took about a year and a half. It was only in October 2011 that Member States approved the language policy.

Within the last biennium there was also some consideration on adopting some new CAT tools but the Secretariat decided to take a holistic view of the entire issue after the adoption of the language policy. Now, while considering these CAT tools, the Secretariat thought it would look at all the different aspects, the translation environment, the terminology database and also at workflow environment. The workflow environment was important because outsourcing rates were going up. There would have to be greater contact with the external translators. At the same time the Secretariat also wanted to harmonize the use of such tools with the other sectors of the house like the PCT and Madrid who also use some of these tools to do their own translation work. Therefore, the Secretariat decided to defer the adoption of these tools to the 2012-2013 biennium. For the last few months, some of these different translation tools in the market had been very intensively tested and, hopefully, during this biennium the Secretariat would be able to adopt those tools and enhance the productivity of the language services. The workload of the language service had been going up very significantly and that was why the Secretariat had been looking at some of these technological tools to ensure that productivity increased and that utilization of financial resources could be contained and used most optimally. These were the main reasons for under utilization of some of the resources in the 2010-2011 biennium.

397. The Delegation of Germany said that it had a short follow up question that went beyond WIPO. It asked whether the Secretariat, when negotiating new services for telephony and mail, did this individually as an organization or collectively with other organizations in Geneva.

398. The Secretariat specified that it had talked about mailing service which was negotiated individually. Other services were negotiated collectively with other UN agencies.

399. The Delegation of Oman wished to call attention to the expected result regarding greater efficiency in conference translation and documentation and in paragraph 2 regarding the establishment of an effective language policy in order to cover all the meetings and all documentation. The table stated that it been fully achieved. The Delegation wished to point out that the effectiveness and the quality had been affected. It was speaking from its knowledge of the Arabic language. Documents were always late affecting the time available for capitals to review and for delegations to get timely input. There had not been a modernization of language tools that could help the capitals understand matters fully. The Delegation received many queries and questions regarding some sites which are only in the other languages and not in Arabic. Therefore, the Delegation considered that "fully achieved" was not entirely correct.

400. The Secretariat replied that the performance indicator concerned the development of an effective policy. What had been achieved in the biennium 2010-2011 was the development and adoption of a policy. Looking at the language policy and the transition period as determined by the Member States, the complete language coverage for all public documents generated by WIPO would take about four to five years. What had been done in 2011 was to extend the six language coverage to two committees to which they had not been extended earlier. On January 1, 2012, coverage had been extended to three more committees. During the current biennium it would have to be extended to all the main bodies of WIPO except the PCT Union Assembly and the CoCo, to which it would be extended sometime next year. As decided by Member States, coverage was not being extended to the working groups during the current biennium. Member States had wanted us to come back during 2013 to report on our experience with regard to the six language coverage and then propose whether the languages would be extended to the working groups also. What had been achieved in 2010-2011 was development and adoption of the policy. The implementation would be over a certain period as determined by the Member States.

401. The Delegation of Spain thanked the Secretariat for providing further information and appreciated that further efforts had been made to cut certain costs. That said, it did believe there should be additional savings through the use of software but wanted to complement the ongoing efforts elsewhere. The Secretariat should increase efforts to reduce the volume of

documents. There were many very lengthy documents. Of course, along with the document came the more expensive translation. As the Delegation of Oman had indicated, and given the Delegation of Spain's experience this year, on certain occasions the quality of the documents had left something to be desired. The Delegation did very much note the efforts to extend the language policy but sometimes the coverage was patchy. There might be problems encountered by the Secretariat to keep to the rule of providing documents two months in advance of a meeting. This had not always been the case. The Delegation had also seen certain cases where documents had only provided a summary. This had led the Delegation to believe that, in the case of a very lengthy document, the policy provided for a shorter document. However, it had seen long original documents. It therefore appreciated the efforts involved. This was a complicated process but there was some space for further improvement. In addition, it hoped to see efforts towards savings extended to other areas. The Delegation wondered where these could be achieved. It knew that it was early days, but the Delegation wished to see this level of ambition being extended to other areas such as travel, communication, and electricity because it had seen that indicated that those areas continued to be fairly marginal, at least in the document.

402. The Chair requested the Secretariat to provide the cost of the translation of one page into one language, from English to French.

403. The Secretariat said that some translation work was done in house and some was out-sourced. This year, because of the increasing workload as a result of the adoption of the policy, the Secretariat had been outsourcing almost 68 per cent of its total translation work. When it outsourced a document, the cost to the Secretariat was 26 centimes a word, 330 words was an average per page, which would be about 80 Swiss francs or so.

404. The Chair asked what the cost was when the translation was "in-sourced".

405. The Secretariat said that when talking about the cost of translating a page, it was very difficult to make a proper assessment. Until now the calculation had been done taking into account the total cost of providing language services and dividing that by the number of pages. It was not just the cost of translating a page. The UN in New York had been working on a specific formula on this. When the Secretariat outsourced work, the total cost on translating was not just for what was paid to the external translator because other administrative tasks were involved. When a page was received from the external translator, it had to be revised by a senior editor in the Secretariat or a translator. When revising a page received from outside, the time spent on that was taken away from time this person would have spent on translating a document. The average rate that had been worked out for the last biennium was 213 Swiss francs per page, which had decreased from 226 Swiss francs in the previous biennium. It was a formula that the Secretariat had been working on to calculate the exact cost of translating a page.

406. The PBC Chair remarked that in the WTO the cost per page for translation was 350 to 400 Swiss francs and the WTO was beginning to outsource translation because doing it in-house was very expensive.

407. The Delegation of Egypt supported the Delegation of Oman and thanked the Secretariat for the explanation. The Delegation requested clarification as regards WIPO translators having to revise the work that had been outsourced and the increase in cost. It wondered whether, to reduce these costs, WIPO could consider certifying specific external contractors according to a quality standard in translation so that there would not be a need to revise the work internally. As far as interpretation was concerned, the policy was to provide interpretation in the six official UN languages in formal meetings. It asked what the policy was for informal meetings.

408. The Secretariat said that the language policy adopted last year did not cover interpretation. WIPO did not have a new policy on interpretation but the practice that had been

followed for all committee meetings like this one, for the General Assembly and other Assemblies, was to provide interpretation in the six official languages of WIPO. For informal meetings, there was no policy. It depended on what was asked for or what was decided for that specific meeting. In most cases, it depended on what Member States really sought from the Secretariat. To the extent possible, as interpreters were available, the Secretariat tried to make them available as required by the Member States.

409. Another member of the Secretariat wished to take the opportunity to complement and to focus on what the Delegation of Spain had said in terms of shorter documents. It was music to the Secretariat's ears to hear Member States requesting shorter and crisper documents. It allowed the Secretariat to do that much more for Member States in terms of documentation. The PBC had heard earlier comments on the requirements for language support in other areas and about translation of courses in the Academy. All of this would actually take WIPO further in other areas and speed up the implementation of language policy. Many Member States would not want to hear that, for just one meeting, which would not be named, the *verbatim*s from one session amounted to 460 pages, which had to be translated. That was just for one session. The size that *verbatim*s could take overall could be imagined. The PBC would discuss efficiencies when it reached agenda item 13. One of the items was conferences and documentation. At that point, the PBC could engage on how WIPO could make better use of the resources of the Organization.

410. The Delegation of Germany wished to compliment the Secretariat and pointed out that the speaker had forgotten one word, which was shorter and less. Resources could be saved and used in other places, but the Delegation understood that there were limitations.

411. The Secretariat wished to respond to this point, which also came up during discussions on the language policy last year. The entire policy was based on the WIPO Secretariat having a core group of translators and revisers in-house. Even if it was decided to outsource a very significant part of the work, there was no way that the Secretariat would be able to handle its workload without this core group within the house. Today, there were a total of less than 15 or 18 translators/revisers in some of the sections. In the language sections, there were not even three translators/revisers. There was a whole lot of documentation which had to be translated in-house: confidential documents, treaties, laws, internal circulars. These documents could never be outsourced. The Secretariat could never be sure of the kind of quality that it would get from an external translator. When discussing the language policy last year, it was said that the rate would rise from 35 per cent to 45 per cent in the next biennium. Member States wished the Secretariat to have a higher percentage of outsourcing. That was driven by circumstances. The Secretariat had no option but to go beyond the 45 per cent it had itself fixed for outsourcing. Outsourcing was now at 65 per cent. Even if it went up tomorrow, there would still be enough work for the core group of translators within the house. If anything, it would be necessary to strengthen one or two sections so that the Secretariat was able to turn out better quality of documentation because the Member States had also told the Secretariat last year to try to obtain a higher level of outsourcing without compromising on quality. At the end of the day, when sitting in room A, somebody would say that the quality of the document was not good, it was the Secretariat's responsibility and not the responsibility of the external translators. The Secretariat validated documents before they were shared with Member States, this being the Secretariat's responsibility.

412. The Delegation of China thanked the Secretariat for having provided clarifications. The Delegation appreciated the fact that the Secretariat had done much work to be able to supply documents in all the official languages. It noted that progress had been made in this field. However, up until now it had seen, for example, that for the current meeting there were still no documents in Chinese. Some documents did not have a Chinese version. The Delegation hoped that, in the future, WIPO would continue to improve on this.

413. The Chair read out the proposed text of decision concerning document WO/PBC/19/2: “The Committee is invited to recommend the approval of the document with the technical amendments / revisions to the Assemblies of the Member States of WIPO.”

414. The Delegation of Egypt said that the African Group had noted the preference to note the report and wondered if the PBC could proceed according to this request.

415. The Delegation of Brazil said that the same request had been made by the DAG.

416. The Chair said that that Secretariat had informed the Committee that in the past the PPR had been approved. On the other hand, there was no statutory requirement for approval. The PBC could go either way. The Secretariat preferred approval. The Committee was willing to go with the requirements.

417. The Secretariat explained that, over the last couple of days, Member States had expressed a wish to strengthen governance, accountability and internal controls. One of the examples of good governance would be to approve such report in order to allow for greater accountability within the Organization. The motivation was very much to strengthen result-based management. Noting the report would actually weaken that perspective. However, the Secretariat was very much in the hands of Member States

418. The Delegation of France wished to give a very clear point of view on this topic. As far as the Delegation was concerned, the PBC had heard the answer from the Secretariat and it corresponded exactly to the philosophy of the PBC. It was the Delegation’s impression that the PBC had dealt with the report, issues had been clarified, a certain amount of comments had been made, and the PBC was therefore now in a position to validate it. Simply taking note, considering that it was the PBC, would take away the credibility of the whole results chain that Member States were trying to establish. It was to take advantage of this that Member States were here in the PBC. There was a preference for just taking note according to what the PBC had just heard. But the Delegation was sure that it made a considerable difference. On the one hand, it had a direct weakening of the credibility of the Secretariat and the PBC because this was a performance report, and it was one of the flagship reports of the PBC, and on the other hand it also have a preference which made the Delegation a little uneasy.

419. The Delegation of Brazil, speaking on behalf of DAG, thanked the Secretariat for the explanation and welcomed the information provided in the PPR. It was not dismissing the information. It welcomed the information provided and it had engaged in the whole session today in providing feedback to it. There were points that some members of the DAG had identified, some questions, some issues, and it was actively engaged in trying to understand and trying to propose improvements or changes for the next PPR. It did not therefore deem this information or this report unnecessary or a minor accountability tool. The Delegation of Brazil had that morning pointed out that this report was an accountability tool for Member States. This was how the Delegation saw the importance of the report. It did not know exactly the practice in other organizations but it also thought that was a very welcome practice to have the IAOD check the document. The IAOD had explained the methodology. It was a simple methodology and 10 per cent of indicators were screened. The DAG had found the remarks and observations made by IAOD very useful. It knew that there were some improvements to be made. Some observations had been made by the auditor, which were also being taken into consideration. This was to say that the PPR was not something thought of as unimportant or unnecessary. On the issue of approving the PPR, DAG’s point of view had been expressed in earlier interventions. To approve this document would be to agree with everything that had been put into it. Approval would mean the DAG taking a position where it agreed with some information that it had already explained that it was not so comfortable with. This was the DAG’s main point. It welcomed the information and thought it was necessary to improve it. It had made many interventions regarding how to improve the document, but it was not in a position to approve a document that was so large. Another point was that the information provided in the

report was based on a self-assessment of the Secretariat. The DAG was not against the self-assessment of the Secretariat. It was important to have this. It welcomed the words and information provided by the Secretariat but it did not feel that it was necessary to approve the information provided by the Secretariat because this had not been negotiated with Member States. It was different, for instance, for the Program and Budget, which itself was a voluminous document. In that case, Member States had some information first and then interacted during the PBC session. The speaker said it was their first participation in a meeting of WIPO last year during the PBC session, with the opportunity and privilege to discuss all the programs involved. This required much more attention from Member States, many more interventions and involved much more work. The DAG did not think it necessary for Member States to change or to negotiate each and every sentence or the information provided in the report. This was why it said that it welcomed it and took note of it. This was a different stance to approving the report. The Delegation hoped that this clarified a little bit the DAG's position.

420. The Delegation of Switzerland wished to endorse what was said by the Delegation of France. It also thought that the logic of the whole exercise went along the lines of approving the report. The Committee had the document and it was normal that these evaluations were made by the Secretariat and that it was validated. Today, the PBC had had detailed conversations, raised questions, and made remarks which were taken into account. The Delegation understood that certain points would be amended and modified following these remarks. The Secretariat had reacted to what delegations had said. At this juncture, the Delegation believed that the document was ready to be adopted. It was the work of the Committee to adopt these kinds of reports, just as it adopted the accounts. The Delegation did not see the concept of having to negotiate every line and full stop in the report. It recognized the validity of the information with the amendments that had been requested. For the Delegation, the document was ready to be adopted.”

421. The Delegation of Algeria endorsed the statement made by Delegation of Brazil on behalf of the DAG and wished to clarify things fully. The Delegation did not fully share the interpretation of certain delegations regarding the link between taking note of the report and governance within WIPO. It thought that these were two issues that were totally distinct. It would be preferable to take note of this document because it had been highlighted several times that the report was prepared based on a self-assessment by the Secretariat. Taking note of the report did not mean that the Delegation did not have the trust in the Secretariat or that it did not value the information in the report. Not at all. It was committed to an exercise of strengthening and perfecting this document, but it did think that it was useful to take note of it because it was done without including the Member States and the PBC had just one day to discuss it. The Delegation continued to have some concerns with certain paragraphs in the report. From the Delegation's perspective, adoption would be more difficult than taking note of it. Adoption implied a negotiation process and, therefore, the Delegation would rather take note.

422. The Delegation of the Russian Federation wished to point out that that the report was indeed prepared by the Secretariat but based on the Program and Budget. In that Program and Budget, Member States had adopted strategic objectives and defined the different results, performance indicators, etc. The PPR was submitted to Member States and contained the report of the Secretariat on the performance of the Program and Budget that had been adopted in 2009. During the debate on this report, information had been provided and clarifications had been given about the various activities. The Delegation therefore thought that the document should be approved.

423. The Delegation of Germany aligned itself with the remarks of the Delegations of the Russian Federation and Switzerland. The PPR and the figures were twins, somehow, two sides of the same coin. Noting it would send a signal in-house that the document was a second class document. In the future, nobody would put so much effort into a second class document. It was first class and should be approved and very closely linked to the financial statements.

424. The Delegation of France said that among comparable organizations, WIPO would stand isolated. The document on performance was a document dealing with the past. Refusal to adopt it, in all other fora, meant that Member States did not approve of it. The Delegation understood the specificities of WIPO and the very positive comments, except from the Delegations of Algeria and of Brazil, which meant that there was an appreciation of the work but when looking specifically at what was being done in practice, it was a clear-cut sign that this document was judged bad or unacceptable, unfortunately. Secondly, the document was accompanied by a validation report by the internal auditor. It was of remarkable quality and was very critical. The two went hand-in-hand. WIPO was the only organization that had that kind of validation document and this corresponded exactly to what Member States were expecting as a process of checks and balances. There was an independent actor, the internal auditor, who had expressed an independent point of view on the report.

425. The Delegation of Japan echoed the interventions made by the Delegations of France, Switzerland and the Russian Federation. It said that it should be borne in mind that the PBC had spent the whole day discussing in detail the report provided by the Secretariat.

426. The Chair proposed a compromise solution in view of the exchange of comments between the DAG and the African Group. He said he had consulted the Secretariat. He added that saying "PBC noted the report" did not quite reflect the engagement. Members wanted some more, but they did not want to go to the extent of approval because this was not their document, they had not negotiated. One possible compromise would be to say "reviewed and noted". Reviewed would indicate that Members had actively engaged in discussing the document and, therefore, it was not that they had noted it. They had actually looked at the report program-by-program. A possible compromise would be to say that the PBC reviewed the content of the document and recommended that the Assemblies take note of it.

427. The Delegation of Switzerland thanked the PBC Chair for the efforts to try to find a compromise and said that the document needed to be adopted. The PBC had reviewed it but the final decision proposed was to take note and that was not sufficient. As was explained, in other organizations Member States adopted this kind of document. The proposal was therefore not sufficient.

428. The Delegation of Egypt welcomed the compromise and suggested ensuring that the word "review" captured all the remarks being made, the interventions, requested clarifications and requests that were presented during the discussion. The Delegation understood that this should be understood within the concept of "reviewing" because the interventions and statements would be included as part of the record of the document. The Delegation could therefore go along with this proposal.

429. The Delegation of Germany said that "review" was better than "take note". "Take note" would be mean "thank you, just take note". "Review" implied a bit more activity. It was not possible to have an internal definition. The document was written and read by third-parties who would not know the definition of "review" or "take note". The Delegation would not agree to "take note". The financial figures were agreed but not how they were derived because that was a contradiction. The implication was that the PBC could not approve the financial statements either. It took note of them.

430. The Delegation of United States of America turned to one of the comments made by the Delegations of Algeria and of Egypt that the PBC had not had a chance to negotiate the PPR. That was not the PBC role. Its role was to approve the PPR as a self-assessment by the Secretariat of the work that the Organization carried out. The Delegation would not accept a "review" in a note or "note" standing alone. The PBC was here to approve the document and that was what the Delegation was ready to do.

431. The Delegation of Italy associated itself with what had been said by the Delegations of Germany, France and the United States of America.

432. The Delegation of Zimbabwe wished to associate itself with the second scenario. It said that Member States had learned the hard way when they said "approved". It became a reference document and each time Member States tried to raise objection to certain things it was mentioned that Member States had approved this in this document. As mentioned by the African Group and the DAG, therefore, until it was negotiated, it was difficult to come to an understanding of what was approved or not approved in any document. As practice stood, there was already a testament by the auditors. They had raised a number of issues which the PBC had also raised. The Delegation took note of the reasoning but asked how it would know how the Secretariat made the corrections. The Delegation's interpretation of the document was that there was a discussion. Once Member States had been assured, or guaranteed, that all inputs had been incorporated into the document, then, probably, the PBC could consider approving it. So far, based on general comments, the PBC was being told to approve the document. The Delegation asked how Member States would know whether comments and suggestions would be factored into the document, and how they would know that the document that they were approving really reflected what had been discussed the whole day.

433. The Delegation of Germany said that, to give a different perspective, the PPR was history and a self-assessment by the staff. The PBC had asked questions and requested additional explanations but it could not change the past. The past was past and had gone by. There was no information in the PPR about how programs would be implemented in the future. That was in the Program and Budget, which Member States approved. It really made no sense to hold up the decision now. The PPR was history and the PBC was saying that it agreed to what the Secretariat had been doing. The Delegation, therefore, saw no reason why the PBC could not approve it.

434. The Delegation of Brazil, reflecting on what had been said by the Delegation of Germany, said that, of course, the report analyzed the past but that it was also a managerial analysis with some qualitative analysis stating "achieved" or "not achieved". That kind of evaluation was subjective. The document was different in nature from financial statements because when a number was presented it was difficult to have that kind of subjective evaluation. The self-assessment by the Secretariat was a managerial interpretation of what had happened. There was a space for people not to be comfortable with everything that had been said. The Delegation said it was trying to make its earlier intervention a little bit more clear.

435. The Chair concluded and hoped that the issue of the decision text would be discussed and agreed on by the Coordinators.

436. The Chair resumed the meeting following consultations between the Group Coordinators. He read out the decision text agreed to during these consultations.

437. The Program and Budget Committee (PBC) having reviewed the Program Performance Report (PPR), and recognizing its nature as a self-assessment of the Secretariat, recommended its approval to the General Assembly, subject to the comments, concerns and suggestions for improvement raised by Member States and reflected in the report of the PBC as well as annexed to the PPR (document WO/PBC/19/2).

Report on Activities of Program 18

438. The Chair invited the Secretariat to report on the activities of Program 18 (IP and Global Challenges).

439. The Secretariat provided an overview on the activities of Program 18 (by means of a PowerPoint presentation) throughout the last biennium. It recalled the commencement of WIPO's involvement in the area of IP and global challenges. In 1974, the agreement between WIPO and the United Nations had been concluded. According to this agreement WIPO was responsible for promoting trade of intellectual activity and transfer of technology to accelerate cultural and social development. WIPO wished to incentivize and facilitate development. It provided for the development of WIPO's work. However, addressing this function at the international level had become increasingly complex but also increasingly important. This was largely due to at least two important developments on the international level, firstly, the development towards a knowledge society and, secondly, globalization. Largely as a result of these two developments, IP had become increasingly interconnected with other policy areas. These included highly important areas of public policy (which may be called global challenges), climate change, food security, public health; challenges which unfortunately disproportionately affected developing and least developed countries. Since WIPO was a UN agency with a mandate in IP, obviously it approached these challenges from an IP perspective. It had asked how the IP system could be used to address these public policy issues. The DA had provided a strengthened mandate to also address these issues from a development perspective. WIPO had addressed the interface between IP and some of these challenges at least for some time already, notably under the old Program 5, Life Sciences. Only in 2008 Members had agreed to develop a specific program to address all these global challenges and look at the interface between those challenges and the IP system. In 2008-2009 the Global Challenges Division had been established and in the last biennium (2010-2011) it had become fully operational. The Program and Budget for the last biennium called upon WIPO, through this Program, to undertake at least three key tasks which were listed on the presentation slide: first, active cooperation to act as a catalyst for partnerships and collaborations for the use of IP as a policy tool to promote innovation and transfer of key technologies in tackling global challenges. Second main task was to contribute to the international policy dialogue on the intersection between IP and global public policy issues. As the only UN agency with a mandate in IP, WIPO had an obligation to contribute its distinct experience and expertise to these debates. Third task was to provide neutral and fact-based information for policymakers and Member States to close the information gap. The Program and Budget also identified the three areas on which the work should be focused: public health, climate change and food security. Document WO/PBC/19/2 provided full details of the results of the work in 2010 and 2011. The Secretariat wished to highlight a few areas of the work undertaken in the past biennium and provided a brief update on what had happened afterwards until today. Looking at the area of public health, the Secretariat wished to focus, in particular, on a project, which was WIPO Re:search launched in October 2011 after quite some preparation work. The objective of this platform was to facilitate the sharing of information in the fight against neglected tropical diseases, tuberculosis and malaria, which predominantly affected the poorest in large numbers. The United States Congressional research estimated that 2 billion people worldwide were at risk of contracting Neglected Tropical Diseases (NTD), more than 1 billion were affected with one or more. According to estimates more than half a million were believed to be killed by an NTD every year. There was very little research, medicines, diagnostics and vaccines were nonexistent or outdated. In a way, it was an example of market failure. The market had not set the right incentives for producing this type of innovation research and development. In this area, WIPO had been acting as a catalyst for cooperation and partnerships in research and development to develop medicines, vaccines and diagnostics to combat these NTDs, malaria and tuberculosis. The Secretariat hoped that WIPO Re:search could build bridges between providers and users all over the world. Providers would be those willing to share valuable IP in the wider sense, including know how, manufacturing processes, regulatory data, compounds, compound libraries, and anything that could be useful for others to take on and use in order to develop vaccines, medicines or diagnostics. To do so, to make this material available free of charge for the research and development, users included medical research centers and academia in developing and least developed countries, especially anyone who could use this material to develop relevant medicines. The consortium comprised institutions from all relevant sectors all

over the world including the private sector, major pharmaceutical companies. The next presentation slide showed where WIPO stood today. There were some happy developments in this area. First, the Secretariat highlighted another important aspect of work, which was on the trilateral consortium between the WHO, WIPO and the WTO in the area of public health. It had become increasingly apparent that IP, health and trade, as far as public health was concerned, had important policy overlaps which needed to be managed. In order to ensure policy consistency and coherence between these various aspects, the WHO, WIPO and WTO had started to cooperate increasingly closely. One example for this cooperation was the technical symposia on access to medicines which were organized jointly. Two had been organized in the last biennium, one dealing with pricing and procurement practices and the other on patent information and freedom to operate. Feedback received on these events was largely positive. There were positive developments with regard to WIPO Re:search. Since its launch last October, WIPO Re:search had grown from 30 to 50 members, from all five continents. Through WIPO Re:search, important technology transfer agreements had been concluded which would facilitate research into novel treatments for chagas, sleeping sickness, schistosomiasis and tuberculosis. The Secretariat was planning to hold the first meeting of partners in late October. The work with the WHO and the WTO continued. The trilateral collaboration continued. The program was currently collaborating on a publication on medical innovation which examined the intersection between public health, IP, and trade. It planned to launch it before the end of this year. Moving to a second global challenge, climate change, the Secretariat said that throughout the last biennium the Program had prepared the ground for the development of a green technology platform which aimed at facilitating innovation and transfer of green technologies. The idea in a nutshell was to enhance market transparency, providers of technology could indicate in a database technology packages which they were willing to share, not just patents but whole packages of technologies. They indicated the conditions under which they would be willing to do so. Transfer agreements were then negotiated individually. On the other hand, potential uses could also indicate their technology needs so that the system could develop into a green technology broker or match-making system. The Program would also, in the next event, facilitate transfer of expertise which would be provided in partnership with other IGO and NGO partners. This would involve assistance with drafting contracts, needs assessment, dispute resolution and accessing finance, quite an important aspect. Ultimately, the idea was to tie the three elements together: technology, needs and financing, hopefully creating markets and getting technology transfer going. The Secretariat had also organized a conference on innovation and climate change in the last biennium. The objective had been to bring together people from government, academia, the IGO, civil society and industry to explore strategies and try to identify tools to provide knowledge transfer in developing green technologies. It had been a stimulating brainstorming exercise. For the interested delegations, all the presentations were available on the website. The third aspect was cooperation or engagement in climate change that had involved working with a growing number of partners which were listed on the slide shown. Most importantly, the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC) and WIPO had been participating in various UNFCCC organized site meetings with certain agencies, including on technology knowledge transfer. The Secretariat emphasized that all WIPO participation in these events and these discussions had been at the invitation of the UNFCCC Secretariat. WIPO had not participated in the negotiating process. The Secretariat was very conscious of the fact that the Program was a resource and not a party. The Secretariat proceeded with a brief update on WIPO GREEN following the last biennium. This platform had entered the pilot phase. There was a database with some basic features. Collaboration with partners in industry, IGOs and civil society had been consolidated and expanded. There were some technology uploads and indication of needs. The Secretariat had started to develop a framework for a dynamic partnership having supporting systems, hopefully to create some dynamic in the otherwise rather passive database. The third area in which the Program had been active, although to a much smaller extent so far, was food security. The program had started exploring how WIPO could contribute to the collective search for ways of addressing the challenge of securing sufficient quality food for all through enhanced innovation, in particular because innovation was what needed to drive enhancement of

productivity. There were FAO statistics showing that agricultural production needed to increase by 60 per cent over the next 40 years to meet demand. On the other hand, however, arable land was estimated to increase only by five per cent. This additional production would have to come from increased productivity. That also meant that it was important to strengthen agricultural innovation systems at all levels. The program could not do all of that. But, the program had started to explore what WIPO could actually do in this area, how it could contribute to this challenge from an IP perspective. In the last biennium the Secretariat had organized a seminar on how the private and public sectors used IP to enhance agricultural productivity. Agricultural centers and cooperating farmers from various countries, NGOs and the private sector were all participating. The report was available on the website and a publication had been issued last November (also available on the website). For those interested, hard copies were also still available. Building on the seminar last year, the Program had so far identified East Africa, in particular Tanzania, as an area where the technology to improve agricultural productivity could be tested. The first informal brainstorming session with potential partners had been held in May 2012. The possibility of a case study, which would be something active and real and which would hopefully produce tangible results through the active participation of a number of different groups who can contribute to enhancing agricultural productivity through new collaborative approaches, had been discussed. However, the Secretariat said that, unfortunately, the situation was still in a rather tentative and at an informal stage. The Secretariat added that matters were lagging behind in the area of climate change and public health. The Secretariat proceeded to explain the work program was being developed. This had been done based on the guidance received from Member States, notably through the Program and Budget. The Secretariat was grateful for the support that many Member States had provided in general terms and with regard to individual projects. The Secretariat concluded by saying that it was looking forward to continuing this work and to collaborating with Member States.

440. The Delegation of France thanked the Secretariat for the presentation, which it found very clear. It was a young Program so it was useful to have an update of this kind. It was interesting as well to see how the Program was evolving. The Delegation wished to recall the importance of a systemic vision behind the Program. As far as the Delegation was concerned, WIPO was first and foremost an agency in partnership with other agencies, so it had a systematic duty to identify the best cooperation on topics which involved a vision of IP. What was often seen was a risk of dilution if it wanted to participate in everything because there was an IP dimension to it. Perhaps it was not the best way to approach this topic, because, fortunately, IP today was being taken into account by all the specialized agencies, all the people involved in development, even the humanitarian sector. IP was there. What was really needed was reflection on what sector WIPO could have added value for itself, as an organization, and for the whole system. What interested the Delegation, at the start, was the capacity of the UN system and all the international organizations to be able to give full value to the IP dimension with WIPO, or without WIPO. The important thing was that it had the best construction at the end. That was extremely important. The second point on this Program: rendering account and accountability was extremely delicate because it was fundamentally involved with partnerships. To quote the involvement with the WHO and governmental partnerships was really difficult. A watchful eye had to be kept, with the aim of having maximum efficiency in all these partnerships. There was a risk of redundancy at different levels. There was a temptation for any agency or particular domain to say that it was the best place at a given point in time. That was a reflex which the Delegation did not wish to see in the organizations. It was not because there was an IP tag that WIPO was necessarily the best placed agency to act. On the other hand, when it was the best place it was very useful that it could impose its leadership so that the partnership could identify WIPO as being the lead agency on this project for Member States. This also begged the question on the follow-up of these partnerships because of the manpower constraints. It was difficult to follow the interagency initiatives if the distribution of the roles was not fully understood, particularly when it was on a sensitive political issue where the positioning of the various fora was rather different regarding health, medication, drugs. There were not the same positions within the WHO, WIPO and the Economic Commission for Europe or even in other

fora. It was important to be extremely careful there and to facilitate the follow-up by the Member States.

441. The Delegation of Egypt, speaking on behalf of the African Group and the DAG, thanked the Secretariat for the information on Program 18. The African Group and the DAG considered this Program of high importance because of the key policy issues, which were of significant interest to developing countries, especially food security, public health and climate change. Having reviewed the 2010-2011 PPR on Program 18, the DAG and the African Group wished to make the following remarks. The report stated that the design, planning and implementation of activities undertaken by the Program were guided by the relevant DA recommendations. While such a statement was welcomed and appreciated, there was not sufficient explanation or elaboration on exactly which recommendations were followed or which ones guided the Program, how this guidance was ensured and what were the specific results or outcomes which the Program achieved last year to address the challenges of food security, public health and climate change in developing countries based on the forums and seminars and case studies that have been presented. Secondly, it was noted that one performance indicator had been partially achieved; the indicator related to the number and scope of new policy tools and studies and patent information analyses and data tools. However, the performance data did not explain what exactly was not achieved in this performance indicator and for what reasons. The Delegation asked how WIPO would address this in the future, to ensure that the indicator was fully achieved. Thirdly, on the budget and actual expenditure, the Delegation noted that the expenditure had significantly increased beyond the approved budget as regards personnel resources. The approved budget for posts was 3,464 thousand Swiss francs, but expenditure amounted to 5,860 thousand Swiss francs. The approved budget for short-term employees was 411 thousand Swiss francs. The actual expenditure was 560 thousand Swiss francs. Approved budget for consultants was 269 thousand Swiss francs. Actuals were 1,528 thousand Swiss francs. Internships, approved budget was zero. Actual expenditure 62 thousand Swiss francs. The DAG and the African Group sought further clarification on this issue because the explanation provided was insufficient. The report stated that the increase was due to the redeployment of staff for the strengthening of innovation promotion and technology transfer and IP and global challenges related activities. Another question was the extent to which experts from developing countries were recruited for the additional posts, short-term positions, consultants and internships. Last but not least, and also having in mind the remarks expressed by the Delegation of France regarding responsibility and accountability and the importance of the Program activities, there was a need for a proper platform to report on. Given the fact that the PBC reviews the PPR once a year and given the important activities conducted by this Program, the African Group and the DAG wished to request more frequent reporting by the Program Manager to the appropriate WIPO Committee. In this context, it wished to suggest that given the fact that the Program was engaged in the implementation of four DA projects, it seemed appropriate to make the required additional reporting on Program 18 to the CDIP. In addition, it also seemed appropriate that such additional reporting could be to the SCP because of the integral substantive relationship between the Program activities and the international patent system. This would also give the chance to national experts and officials on patent issues to be present and make use of the activities that the Program is implementing.

442. The Delegation of Republic of Korea congratulated the Secretariat on the recent accomplishment through the WIPO Re:search project. It also noted some progress made on the online platform for match making for Korean technologies. Generally speaking, it found this fascinating. However, from the presentation it appeared that the Program tried to publicize the platform through a public conference. In this connection, the Delegation wished to request additional information on the actual measures that were deployed to entice both sides of demand and supply to ensure the use of the platform.

443. The Delegation of South Africa thanked the Program Manager for presenting the developments regarding the implementation of this particular Program. The Delegation appreciated the presentation and wished to reiterate that it was very important to be kept

apprised of this Program. It dealt with three major issues and one particular one i.e., on green technology. As had been pointed out, there were developments in other fora on green technology. As had been reported, South Africa had hosted a conference last year. So it was important that Member States were kept apprised and in addition to the oral report the Delegation would have appreciated a written report, separate from the PPR, detail by detail, on what challenges the Program was facing and what it was doing. The Delegation had one question, which it had not had the opportunity to discuss at WIPO, and which it believed was something that could be touched upon either in the CDIP or the SCP. The question was how to define green technology and how to facilitate knowledge transfer. There was a debate about the meaning of agricultural technology. It asked if an indicative list was needed to indicate what was meant when talking about agricultural technology and how the transfer of knowledge was facilitated. The Delegation wished to encourage expediting the work on food security, which was very important for development. There were issues that could be touched upon, which were cross cutting. The Delegation wished to encourage more work on that and said that it would be appreciated if the Secretariat could keep Member States apprised through report either quarterly or annually.

444. The Delegation of Pakistan thanked the Secretariat and requested a copy of the presentation. It shared the view of the Delegation of South Africa that it was better to have written information. The Delegation fully agreed with the Delegation of France on the point that WIPO had a special responsibility, since these were sensitive issues, but it did see that the Secretariat had been prudent enough with regard to how it had taken part in the international fora on these sensitive issues. There was a reference to the green technology platform and the health platform in the PPR (on page 89). The Delegation said that it would appreciate more precise information regarding these two issues, because it wished to be more clear on how this was progressing and how it affected the work in the Organization. Lastly, with regard to food security, the Delegation said that it had seen that there had been one seminar, but definitely there was going to be more activity. WIPO could have activities in collaboration with UPOV and FAO. Two broad areas could be: the development of a database on the plant varieties which have increased productivity and which were available in the public domain; second idea could be bringing together the right holders on the plant varieties together with the private and the public sector. These two areas could be explored further to see how this could help in understanding this sensitive issue.

445. The Delegation of Brazil, speaking in its national capacity, thanked the Secretariat for the presentation and said that it attached great importance to the activities carried out under this Program. It also thought that it was good practice in terms of accountability to have this information session. It recalled that it had been decided in the last session of the PBC that these activities would be reported to Member States during the PBC sessions and, as already suggested by other Delegations, it would be useful to also have the presentation in a written form made available, along with the other PBC documents, so that Member States had the opportunity to read the documents and be familiar with them before the sessions.

446. The Delegation of the United States of America, referring to a comment of the Delegation of Egypt, questioned the added value of the additional reporting on Program 18 to the CDIP and the SCP. It thought that it would be helpful to get further clarification on that point.

447. The Delegation of Australia said that it was also very supportive of this Program. It thought that it was a very important Program and welcomed WIPO's active engagement on these issues. As part of that support, it wished to inform Member States that Australia had recently established a trust fund providing some financial support for the WIPO Re:search program and more specifically for facilitating the hosting of LDC or developing country research in laboratories to assist with that program.

448. The Delegation of Switzerland thanked the Secretariat for the information provided with regard to Program 18 as well as the other programs that had provided information to the PBC

that morning. The Delegation fully supported the activities undertaken under this Program. As was agreed last year, the PBC had received information on this and other Programs and as such the Delegation did not believe that there was a need for further reports in addition to what has been indicated in the PPR 2010-2011. Indeed, the intention behind the report was to provide that necessary detail. The PBC had that necessary detail and the Delegation saw no reason to go beyond that. This was very much the essence of the agreement that the PBC had reached last year. With regard to the notion of addressing this issue in other Committees, this was an issue which was also discussed last year, and it was agreed that the PBC was the right forum to discuss this Program and the activities to be undertaken as part of the ordinary budget and reporting process.

449. The Delegation of Germany wished the experts to continue activities under this Program. Regarding the budget, the Delegation said that the 2010/11 approved budget amounted to 5.3 million Swiss francs. The transfers added 10 million Swiss francs and for the new biennium only 6 million Swiss francs was allocated, which was 4 million Swiss francs less. The Delegation asked how it was possible to expand activities with less resources.

450. The Delegation of Egypt, referring to the question raised by the Delegation of the United States, said that of course it welcomed this presentation and reporting to the PBC. However, in addition to this reporting, it saw the value and rationale for additional reporting, not just once a year as was now the case when discussing the PPR. It had propose the CDIP because on page 87 there was clear statement that Program 18 was engaged in the implementation and preparation of a number of DA projects. It believed that there were four projects and of course the CDIP was the forum to discuss the DA projects. It therefore made perfect sense for the Organization to report as part of this program for the CDIP. It had also suggested the SCP because several of the issues being discussed in the IP system, such as food security, climate change as well as public health, related to the patent system and these issues were being discussed in the SCP. In the PBC, the Delegation saw no experts on climate change, public health or food security. It made sense that those experts would come to address the SCP, and would get to benefit from this information presented and would lose this benefit by only limiting the discussions on this program into the PBC.

451. The Delegation of South Africa fully endorsed the reply provided on behalf of the African Group on why additional reporting on these issues was being requested. The Delegation appreciated very much the information that had been given but said that, on reflection, the issues had not been thoroughly discussed. Hence, some delegations had requested clarifications on some issues and on some of the terminology and what this meant to WIPO and how WIPO was interfacing on it. This was in essence what the Delegation of Egypt had explained as their rationale behind support for this. In terms of the proposal for additional reporting, the Delegation of Switzerland stated that members had agreed the previous year not to have additional reporting. That was inaccurate. There had not been agreement on that point, which the Delegation just wanted to clarify. The agreement was that, as a compromise, the Program could report in the PBC. As for the presentation, the Delegation appreciated the information and requested more detailed information, on a regular basis, in order to understand what the Program was all about and which developments were taking place. The Delegation did not think that it was advisable only to rely on the PPR and the oral report. The information provided was very important and Member States wished to have an impact on what the Program was doing. For example, the Delegation of Pakistan had provided some useful ideas in terms of the interface between the Program and FAO and UPOV. Those were some of the inputs that could be provided to add an additional value to the Program. That was the rationale behind having reports which could also be transmitted to the capitals.

452. The Delegation of China said that, the other day, when the Delegation had received the documents, some Chinese versions had been missing. The Delegation now had all documents in Chinese and it thanked the Secretariat for its effort. On Program 18, it highly appreciated WIPO's efforts on IP and global challenges. However, given the importance of this topic, it

thought that discussing it only in PBC would not allow all Member States to fully participate in the Program. It therefore thought that it was necessary to discuss this issue in other WIPO committees, including the CDIP.

453. The Secretariat thanked all delegations for their interventions, particularly, those delegations, like the Delegation of France, who had indicated the sensitivity of the area when talking about the interface between IP and global challenges. The Secretariat was very much aware of all the risks: the risk of dilution, lack of policy cohesion, lack of consistency of approaches and redundancy. The Secretariat wished to assure Member States that it was not only aware of those risks but that it was actively working to avoid them. The Secretariat was working both in Program 18, as well as in Program 20 (in charge of external relations) to ensure this type of consistency to avoid duplication. The Secretariat also avoided generating activities in areas where others were also doing it, and it had been liaising with the other agencies to decide which was the best area in which to go ahead. In the areas of platforms, WIPO Re:search and WIPO GREEN, the Secretariat felt that WIPO was the one who could take the matter forward best. So in those areas WIPO had taken the lead. In other areas, WIPO contributed to the activities at the WHO, most of which were reported in the PPR as well, at the WTO and other fora. The point regarding partnerships and vigilance was also well taken. Getting involved with different partners, was a project in the area of Program 20, which concerned the development of guidelines for partnership with the private sector. This was currently being addressed within WIPO. On the issue of reporting, the Secretariat said that it was prepared to report wherever and whenever Member States requested it to do so. If Member States felt that the Secretariat could thus contribute to the discussions in the CDIP or in the SCP, the Secretariat would be happy to do so. The Secretariat added that it had started to organize briefings on the activities of the IP and Global Challenges Program on the margins of these types of meetings. The Secretariat planned to continue to provide the briefings and regular updates to all those Member States who were interested in it. The Secretariat had also started to provide new informal fora for discussion: two had already been done and another one was planned for this year. Those were the fora where individual issues concerning the interface between IP and global challenges could be discussed and, if necessary, the activities of the Program could also so be scrutinized. The Secretariat also always stood ready to answer any questions which Member States might have individually. As far as the written report was concerned, the Secretariat would be happy to do provide it. The reason for not doing it this time was that the Secretariat had felt that systematic reporting was being done in the PPR with explanations provided according to the expected results and performance indicators, which the Secretariat hoped should shed light on the Program's activities in a accessible format. The Secretariat added that there was also a matter of resources, both on the Secretariat's end as well as Member States' end because Member States would have to read those papers and the Secretariat would have to translate them. If Member States wished, the Secretariat would be happy to provide a written report to the next PBC. The Secretariat proceeded to respond to the question why one of the indicators was only partially achieved. The reason was that four externally commissioned policy studies had not been done. The Secretariat had focused all energy on the development of WIPO Re:search and WIPO GREEN platforms. It had been felt that this was where tangible results could be delivered, not just additional policy and information material. Therefore, the Secretariat focused first on these practical platforms rather than on doing external studies. As regards expenditures, there were three active divisions in this Program. One was the IP and Global Challenges Division, which carried out the work that the Secretariat had just reported on. Secondly, there was sub-Program 18.2 dealing with innovation and technology transfer (which had its "home" in the Innovation and Technology Sector. Sub-program 18.3 dealt with the interface between IP and competition policy. This structure had taken effect in 2010. This was probably the reason why the original budget allocations had not reflected what had actually been necessary in order to implement all the work to deliver on the expected results. The Secretariat offered to provide delegations with a list of the transfers. However, the real reason was that the Program was *de facto* only fully resourced in 2010. The Secretariat responded to the question from the Republic of Korea on how the Secretariat enticed participation in WIPO GREEN. The Secretariat considered it a crucial issue and

question and added that it would happily engage in discussion with Member States on their additional ideas. So far, the Secretariat had worked both through industry associations as well as with partners - IGOs and programs within the UN system including the UN Global Compact which was a channel into the private sector - in order to generate interest. The Secretariat had also participated in a number of meetings, in particular those where potential industry partners had participated, in order to promote the platform. The Secretariat was ready to participate in any such forum, which the Committee felt might be interested in receiving information on WIPO GREEN and perhaps also with a view to enhancing participation in this Program. The Secretariat thanked the Delegation of Pakistan for its suggestions in the area of food security, which would be taken up. Collaboration between the public and private sector was something which was being considered, albeit in an early stage, with regard to the activity in Tanzania to which the Secretariat had briefly alluded to. This might involve participation of different representatives from the private and public sector in order to focus on one specific problem in one country. There was a good public domain Plant Variety Database and the Secretariat would certainly be ready to discuss this further with UPOV. The Secretariat thanked the Delegation and the Government of Australia for its generous contribution of the funds-in-trust. It was a very positive indication of support. Through this fund, the Government of Australia was participating in the fight against neglected tropical diseases, malaria and tuberculosis, by funding research in the laboratories of pharmaceutical companies and other research institutions.

454. The Delegation of Pakistan recalled that it had requested more detail regarding the green technology platform and the health platform. This information was not needed immediately, but could perhaps be provided to Member States in written form so that they could have a better grasp of the situation.

455. The Secretariat responded that the platforms referred to in the text were WIPO GREEN and WIPO Re:search. The Secretariat offered to provide additional information bilaterally and added that it was also available on the website.

456. The Chair read out the draft text of decision which invited the PBC to take note of the contents of the presentation on activities of program 18.

457. The Delegation of Brazil observed that the DAG had requested that this reporting also be made available in a written form to Member States and requested that this observation be captured in the decision.

458. The Chair proposed adding the following phrase at the end of the decision text: "and requested that it be made available in a written document".

459. The Delegation of the United States of America sought clarification on the Delegation's of Brazil last intervention. It thought that Brazil's intervention the previous day had been about the PowerPoint presentation, not a written report.

460. The Delegation of Brazil responded currently only PowerPoint presentation was available. The spirit was to have a document in a written form, so that Member States would have the contents of this reporting activity on Program 18 made available to them in the format as all other documents of the PBC session.

461. The Delegation of the United States of America thought that if the written form meant the PowerPoint presentation converted to a pdf, that would be acceptable.

462. The Delegation of Brazil wished to qualify that if it was a written document of the PBC, with official information regarding Program 18, the Delegation would not like to enter into the details whether it was a PowerPoint or a pdf. The spirit was that the information in the presentation to Member States was provided only in an oral form and Member States wished to have this in a written form.

463. The Chair invited the Delegation of Brazil to propose the language for the decision.

464. The Delegation of Brazil specified: "in written form as a document of the PBC".

465. The Chair read the updated text: "the PBC took note of the contents of this oral presentation, and requested that the Secretariat make it in written form as a document to the PBC."

466. The Delegation of Brazil wished to give a final clarification and said that it was not asking to have the presentation printed and distributed to Member States. It wished to establish a practice that all reporting activities on Program 18 in future sessions of the PBC be presented to the Member States in a written form.

467. The Chair sought confirmation whether the Delegation of Brazil wished to say that the PBC took note of the presentation and requested the Secretariat that the reports on activities of Program 18 be provided in a written format.

468. The Delegation of the United States of America, speaking on behalf of Group B, said that they had been the Group's understanding that Brazil's request had been more or less just for the oral presentation. The Group had not been in agreement that the Secretariat should be asked to produce a separate report just for Program 18 and added that making such request would set a bad precedent. The information was contained in the PPR.

469. The Delegation of South Africa recalled that when the DAG had made that intervention, it had been clear in saying that it would appreciate receiving written reports of Program 18. The African Group had made the same intervention. The Delegation had also made the same comment, in terms of receiving written reports on Program 18, separate from the PPR.

470. The Chair asked whether the text could say: "the PBC took note of the contents of this presentation, and put asked the Secretariat to report periodically in a written form on the activities of Program 18."

471. The Delegation of the United States of America said it did not see how that changed matters. It added that the Committee was not asking the Secretariat to report periodically in written form. What the Delegation had stated previously was that Program 18 reporting was done through the PPRs. This was an exercise of providing an oral presentation to provide Member States with more information on what was happening under that Program. To get engaged in a process of separate periodic reports for Program 18 – the Delegation did not know what that meant. The Delegation was not in agreement with that.

472. The Chair asked if the Delegation's concern was that the reporting was outside the PPR.

473. The Delegation of the United States of America responded that it was already reported in the PPR.

474. The Chair asked if the delegations would consent to it being "regularly reported in the PPR, written."

475. The Delegation of the United States of America responded that the report was included in the PPR, in a written format. The Delegation recalled that some delegations had wanted an oral presentation at this session, then they had asked for a written presentation, which the Delegation understood to be the PowerPoint presentation that was provided with the oral presentation. At present, as the Delegation understood, some delegations were asking for a separate report just for Program 18.

476. The Chair said that it was not what he understood. The Chair's understanding was that this reporting practice would continue, but it would be in a written form. This was not a separate

477. The Delegation of Brazil, wishing to clarify, recalled that in the last PPC the decision on agenda item 13, sub-item 4, had said that the PBC had recommended to the Secretariat to report on the activities, both undertaken and planned, of the IP and Global Challenge Program to Member States during PBC sessions. This created a regular practice of reporting to the PBC. The Delegation understood that there already was a practice of reporting in PBC sessions on the activities of Program 18 but what it had asked for during discussion of this agenda item was to have this report in a written form, as a document of the PBC.”

478. The Delegation of the United States of America responded that the recommendation from the last PBC asked for a report. It pointed out that the report was always written in the PPR. It had been the Delegation’s understanding that the previous year, the DAG and the African Group had wanted a more thorough oral presentation by the Secretariat as to what was being done in Program 18. Matters had moved past that point. At present, these delegations were asking for a separate written report, not what was already in the PPR, but a separate written report on Program 18.

479. The Delegation of South Africa clarified that it had been the Coordinator of the African Group the previous year. It wished to flag that what had been presented by the Coordinator of the Group B was actually factually inaccurate. Last year, the language read out by Brazil had been a compromise. The African group had wanted Program 18 to report either in the SCP or the CDIP. There had been a compromise that it would report in the PBC. There had been no talk of the report being in the PPR. Had the Group known that, it would not have agreed to it. That was why the Delegation was hesitant to agree on the language being discussed at present, because some persons had different interpretation of what had been discussed. The Delegation supported the statement made by the Delegation of Brazil on behalf of the DAG, saying that the report should be in made in writing instead of being oral.

480. The Delegation of Brazil commented that its intervention was captured by what had been said by the Delegation of South Africa. Member States had established the concept of having Program 18 report to the PBC session, and delegations had just asked that this reporting be complemented by a document, not be only an oral presentation.

481. The Chair requested the Delegation of Brazil to read out the text of the decision taken at the previous PBC.

482. The Delegation of Brazil read: “The PBC recommended that the Secretariat report on the activities, both undertaken and planned, of the IP and Global Challenges Program to Member States during PBC sessions.

483. The Chair proposed taking that same language and adding the word "written".

484. The Delegation of Brazil stated, for the record, that it had nothing against the Secretariat reporting orally. This was welcome as well but members needed to have a document substantiating this reporting. There were documents for other topics discussed in the PBC, so there should be the same level of reporting on Program 18

485. The Chair proposed the following text: “the PBC took note of the contents of the oral presentation and requested that such information be provided in advance in written form.”

486. The Program and Budget Committee took note of the contents of the oral presentation and requested that in the future such information be provided in advance in a written form.

IAOD Validation Report on the Program Performance Report 2010-2011

487. The Chair read the decision text regarding document WO/PBC/19/3 (the IAO Validation Report on the Program Performance Report 2010-2011).

488. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/3.

ITEM 9: DEFINITION OF DEVELOPMENT EXPENDITURE IN THE CONTEXT OF THE PROGRAM AND BUDGET

489. Discussions were based on document W/PBC/19/25.

490. The Chair recalled that, in approving the Program and Budget for 2012/13, the PBC decided that the definition of development expenditure was to be considered an interim definition, for purposes of the Program and Budget for the 2012/13 biennium. The PBC also decided that the Chair would convene informal consultations with the view to evolving a more precise definition of development expenditure in the context of the WIPO Program and Budget. The revised definition would be submitted to the 19th session of the PBC for consideration and recommendation for approval by the GA. The revised definition would be used for the preparation of the Program and Budget for the next 2014/15 biennium. In accordance with the decision of the 18th session of the PBC the Chair had undertaken two informal consultations on the subject, on July 3 and August 24, respectively. Following the first consultation, and taking into account comments from Member States, the Chair had circulated for further review a revised draft definition. The revised draft definition included: (i) high level development impact statement; and (ii) key strategies for achieving the stated impact. The new elements of the definition were in line with the principles of the RBM and provided greater clarity for Member States and better guidance to the Secretariat for the purpose of tracking and reporting on development expenditure. Prior to the second consultation, the Chair had received comments from China, DAG, the African Group and Group B. GRULAC had provided their comments after the consultation. The key comments and questions from Member States pertained to the following themes: (1) clarifications on the estimated development expenditures for 2012-2013, requested by the DAG and Group B. These have been addressed in the Q&A paper prepared by the Secretariat; (2) Specific suggestions for fine-tuning the proposed definition (by GRULAC and African Group). The Chair welcomed these suggestions as a basis for further discussion; (3) Question about the level of details required in the definition and in the listed strategies (Group B). This had been discussed during the second consultation and addressed in the Q&A. In principle, a more detailed definition would serve as a better guidance, both for the Member States and for the Secretariat for the purpose of estimating and reporting the development share. (4) The inclusion in the definition of administrative, management and finance related development expenditure and fee reductions provided to applicants from developing countries within the PCT (Group B). Finally, an estimation of development expenditure for 2012/13 based on the proposed revised definition had been requested. This had been included in the Q&A. The Chair looked forward to a constructive discussion on the proposed revised definition with a view to be able to provide the Secretariat with guidance for the preparation of the 2014/15 Program and Budget 2014/15.

491. The Delegation of the United States of America, speaking on behalf of Group B, stated that Group B was not in a position to adopt or validate the proposed new definition. The Delegation believed that the issue deserved more discussion and it was not imperative to do it right now.

492. The Delegation of France stated that, as far as the Delegation was concerned, it did not believe that a more detailed definition was necessarily a priority. A more detailed definition was not necessarily needed. The Delegation was more concerned about the approach taken to

determine development expenditure because to the outside world it was incomprehensible if somebody had not followed the discussions. The Delegation had a whole series of issues on the definition which it felt were irrelevant since they were presented in last year's discussion already. At this stage, the Delegation would just like to make a very simple suggestion and that would be to split the problem into manageable chunks. We could, of course, work on quantifying expenditure by WIPO benefitting development worldwide. Essentially, anything which was not part of WIPO's commercial activity would be part of that. That would not pose any problem to the Delegation. Then there could be a category that would involve measuring specific assistance provided to developing countries and least developed countries in whatever form. This would be a simple approach which would go some way towards resolving the problem. Finally, the Delegation also endorsed the statement made by Group B.

493. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Chair for the consultations on this issue as stated in the Group's opening statement and stated that the Group would work on the proposal. It hoped that it could also capture the slight amendments that the Group had proposed. It stated that as the Secretariat had clearly articulated, there was a need for Member States' guidance for the Secretariat in order to prepare the next budget. In absence of guidance, the Delegation was of the opinion that the Secretariat was not being assisted in its work. In this regard, it recalled that the decision was that work would be done on a more precise definition. This implied that the existing definition was not precise. It would be a disservice to the Organization if the next program and Budget would be based on this imprecise definition of development expenditure. Therefore, the Delegation called upon all partners to engage in this process and to work towards having a more precise definition for development expenditure based on the Chair's proposal.

494. The Delegation of Brazil, speaking on behalf of the DAG, thanked everybody for all the work involved in the consultations that had taken place during the last months and also the Secretariat for providing information and for preparing the Q&A on the questions raised by Member States. Secondly, the DAG recalled what had led to discussing this issue as already mentioned by the African Group. Last year when the Program and Budget had been discussed, the Secretariat had provided an estimate of development expenditure of the Organization. It believed that this was a very positive step to try to identify development expenditure and give feedback to Member States. From the DAG's perspective it was also important to have a precise definition - a definition that could be trusted by Member States and which could really show the amount of resources the Organization was spending on development activities. At that time, the DAG had not been comfortable with the definition that was provided, but that was the definition at that time. The interim definition had been agreed to and it had been agreed to discuss further how the definition could be improved and try to have a more precise definition. Having said this, the DAG had put forward some questions at that time and also during the recent consultation process. One of its main interests was to have a better understanding of the figures involved, of what exactly was accounted for and what was behind these figures, what had been included and what had not been included. During the discussions, some answers had been provided to these questions. But, naturally, on other questions and other follow-up other questions might arise. On the definition itself, the DAG felt comfortable with the definition that was being proposed by the Chairman. It believed it was necessary to have a more precise definition. It would help not only developing countries, but also helps Member States to have a better assessment of what was involved. The DAG therefore would remain engaged and willing to contribute to achieve a definition that can really help the Secretariat when designing the next Program and Budget.

495. The Delegation of United States of America welcomed the draft definition of development expenditure developed by the Chair. It was helpful in the process of crafting a more precise definition of development expenditure. At the 18th session of the PBC there had been many questions about how the development expenditure for the 2012/13 biennium had been derived. A more precise definition should better identify all the pertinent costs allocated for development activities of the Organization. Further, the Delegation supported the Group B statement and

believed that more time was needed in the development of a precise definition. In particular, the United States of America strongly believed that staff costs should be apportioned to development activities and should not be excluded from the definition. Personnel resources were key in the execution and implementation of these activities without which such activities would not exist. Furthermore, administrative and overhead costs associated with projects i.e., fixed portion of building, administrative structure, IPSAS improvements, etc, should also be included since development activities of WIPO depended on these investments and costs. The Delegation also noted that such a definition should not contain an exhaustive list of activities. It believed that we should capture the services that WIPO and Member States provide to countries, including the funds in trusts, for the benefit of development. The Delegation continued to say: "As we continue our work in developing a more precise definition, more reporting information to be generated from the results based management component under the ERP system can help in two areas. First, an analysis could be obtained of the outputs and services concerned in the work plans affecting developing countries. This information can improve the comfort level concerning the scope of assistance to be quantified. Furthermore, RBM reporting could address evaluation elements in our discussions. To further enhance our discussions, the United States of America is interested in knowing whether WIPO or any Member States have undertaken a survey of equivalent definitions of development expenditure in other international organizations particularly within the UN. If this exercise has not been undertaken, is there any scope for the Secretariat to do this? This would help inform the discussion to ensure that the approach taken in WIPO is consistent with that in other organizations."

496. The Delegation of Hungary thanked the Chair for the consultations held on this issue and the Secretariat for putting together the document. As it had said in its opening statement, the CEBS had followed the discussions but felt that more clarifications were needed to progress on the definition, including on the questions raised by also Group B and the GRULAC and most particularly on the issue in the first part of the definition, when it states "directly contribute". The Delegation stated that it had a problem seeing the end derived benefits, how this would be measured, and whether it was a subjective or objective assessment. The Delegation also sought clarification as to whether countries with economies in transition would be included in the new definition.

497. The Delegation of China thanked the Secretariat for its careful work. It stated that the revised definition of development expenditure was clearer and more precise and that therefore, in principle, it agreed with this revised definition. The Delegation added that it would be willing to actively participate in the discussion of the text.

498. The Delegation of Japan thanked the Chair for his proposal on the definition of development expenditure. The Delegation of Japan fully supported the statements made by the United States of America on behalf of Group B as well as France and the United States of America in its national capacity. This Delegation was of the view that the administrative costs and overhead cost if it is directly linked to development activities should be considered part of the development expenditure.

499. The Delegation of South Africa supported the interventions made by the African Group and the DAG in supporting the revised definition of the development expenditure. It wished to react to the proposal that there be a study of practices in other international organizations which it did not support. The Delegation stated that this was a straightforward issue and it recalled that last year the Secretariat had informed the Committee that their current interim definition was informed by an ECOSOC document. The task of the Committee was to improve on that definition - to make it more precise. It believed that the current proposal before the Committee could be agreed to by the Delegation. Of course, there were Member States who had reservations and therefore the Delegation would request that, at least, Member States should engage in informal discussions so as to come up with an acceptable definition to all. The Delegation would not encourage that this be delayed by calling for a study.

500. The Delegation of Pakistan supported the statements made by the DAG and the African Group. It believed that the efforts undertaken by the Chair deserved appreciation. The Delegation had worked with getting this part of the definition right to a large extent and it believed that work was needed on the definition as soon as possible rather than entering into arguments which would lead to figures. It was more important to focus on the substance rather than trying to manipulate the figures.

501. The Delegation of Algeria supported the statements made by South Africa, Brazil and Pakistan. It pointed out that on the basis of the Secretariat's estimates, this new definition would lead to an increase in expenditure for development. It was not going to bring about a reform or a sea of change in the Organization. It would enable Member States to have more trust and confidence in the Secretariat's figures and estimates. It called on those Delegates who had expressed misgivings to reconsider in the light of the fact that this was not going to be a major change to the Organization. If consultations were needed on this, they should be brief, concrete, and not slow down the process any further.

502. The Delegation of India thanked the Chair for providing this revised definition of development expenditure. I stated that it had attended the informal consultations. It also stated that in order to clearly understand what part of WIPO resources were being allocated to the use of IP to advance development, it was important to arrive at a clear definition of development expenditure and what activities could be qualified as development activities. The approach of the proposed definition on development expenditure was twofold. On the one hand it focused on improving the efficiency of the IP system as a whole and, on the other hand, it also focused on building capacity and facilitating developing countries to access knowledge, absorb technologies and innovate. The Delegation was of the view that the areas of activities identified that would be counted as part of the development expenditure broadly covered these issues. Therefore, the Delegation supported the proposed revised definition of development expenditure. In this context, it supported the statements made by the DAG. The Delegation was ready to participate constructively in the discussion to arrive at a definition of the development expenditure in the context of PBC.

503. The Chair invited the Secretariat to respond to the questions asked by delegations. The Chair remarked that the Member States would decide, but of course everything had to be helped: what includes what and delegations had asked a lot of questions as Member States and the Secretariat appreciated them and had responded to all of them. The Chair added that he requested the Secretariat to provide clarifications on some of the issues concerning, especially, the administrative fees. The Chair pointed out that in the present definition, the staff and administrative fees were not included.

504. The Secretariat confirmed that indeed this was very much a Member State issue and that the Secretariat would be very happy to have a definition which it could use for preparing the Program and Budget. It also noted that definitions were usually work-in-progress. It was a process to get there. We had one definition. There was now a proposal for a revised definition. Any eventual new definition could be re-visited and revised, it was work in progress towards something that would allow us to get a good handle on this. In a results-based framework, the focus should be on the results and not about the amounts and percentages. It was very much about what are the expected results which should be included in the definition and which ones should not. That would then talk for itself in the subsequent PPRs. This would allow Member States to appreciate what had been included and then make a course correction if necessary. Apportioning overheads had been mentioned by some Delegations. At the moment, there were no systems in place to be able to do that. Maybe it would be possible down the road within the ERP, but the Secretariat hoped that it would not get to the point where everybody had to start clocking their daily activities keeping track of the percentage of time being spent on this, that or the other. It was important to keep in mind the general direction and general magnitude of the expected results and definitions which were included, or not included, to help prepare the Program and Budget. Finally, the Secretariat recalled that last year it had provided an

ECOSOC definition but had said that it was not relevant within the context of WIPO. A survey of other Organizations had also been conducted.

505. Another member of the Secretariat clarified the issue of inclusion of staff costs. It recalled that this had also been raised during the informal consultations and, in this context, referred Member States to the Q&A. It noted that it would be entirely guided by the Member States on this issue, whether to apportion the staff costs in the future, however, it wished to draw the attention to the fact that staff costs were already included in the current definition. The administrative costs, whether they should be apportioned or not would be entirely up to the Member States to decide. As to the question from the Delegation of Hungary regarding the inclusion of certain countries in Europe and Asia, the Secretariat confirmed that in the current definition expenditure related to this region was included and it believed that this would continue to be the case in the proposed new definition as well. As regards the survey, the Secretariat referred to question 10 in the Q&A. The Secretariat had indeed surveyed a total of ten UN organizations on their practices related to the tracking and reporting of development expenditure. It was obvious that there were two types of agencies: development agencies entirely devoted to development, i.e. 100 percent development expenditure; and specialized agencies. In the case of the latter, the Secretariat had not found another agency where development was mainstreamed as was the case in WIPO. Therefore, none of the surveyed agencies was found to have the same type of requirements as WIPO in terms of tracking and reporting on development expenditure. As a result, the practices of other organizations had not necessarily been very helpful in guiding the Secretariat. More details could of course be provided to Member States, if Member States so wished. As regards the inclusion of the main implementation strategies as part of the proposed definition, the Secretariat referred Member States to the Q&A since this had been a topic discussed during the informal consultations as well. The Secretariat reiterated that from the Secretariat's point of view the inclusion of the main implementation strategies, not necessarily a list of activities, would be helpful in order to better guide the "counting" of development expenditure.

506. The Chair reminded Delegations that based on the mandate that had been given to the Chair, the proposed new definition had been provided with a view to evolving a more precise definition of development expenditure within the context of the Program and Budget. The Chair had been tasked with finding a more precise definition. A proposed new definition was now on the table. Was it a more precise definition? The Chair believed it was. Secondly, during the consultations it had been ascertained what the proposed new definition would mean from an accountant point of view. Not from a political point of view. What would be included as part of development expenditure. It had been helpful to clarify what would be included as part of development expenditure. This would facilitate the discussions of what to finally include. The point was to agree on a definition of development expenditure which would be more precise and be clear as to what should be included or not. This had also been confirmed by the Secretariat. Finally, the Chair stated, as had also been discussed during the informal consultations, a new definition could be a living definition. It could be adopted at interim. It could even be stipulated that it could be reviewed in one or two years time. So it would not be adopted in stone. At least it could be used for the preparation of one Program and Budget. And that would provide a basis for comparison. The Chair thereafter suggested that Delegations should consider this and reconvene on this topic the following day.

507. The Chair resumed the meeting following consultation between the Group Coordinators and read out the agreed text of decision on item 9.

508. The Program and Budget Committee (PBC):

- (i) welcomed and took note of the Chair's proposal for a more precise definition of development expenditure, and took note of Member States' comments;
- (ii) invited Member States to continue their consideration of the Chair's proposal;

(iii) requested also the Secretariat, in addition to applying the current interim definition, to test the proposed definition, as evolved before the next session of the PBC, against the draft 2014/15 Program and Budget and to clarify the significant differences between the current and proposed definitions. This is without prejudice to Member States' positions on the adoption of the current Chair's proposal contained in document WO/PBC/19/25;

(iv) decided that the issue of definition of development expenditure would be an agenda item for the 20th session of the PBC. A revised definition, if agreed upon, would be applied to the Program and Budget 2016/17.

ITEM 11 FINANCIAL MANAGEMENT REPORT (FMR) FOR 2010-2011

509. Discussions were based on documents WO/PBC/19/5 and Corr.1, 2 and 3.

510. The Chair referred the Committee to the Financial Management Report for the 2010-2011 biennium stating: "The Financial Management Report for 2010-2011 biennium is transmitted to the PBC in accordance with 6.7 of the FRR, which requires that the financial management report be transmitted to all interested Member States. It is to be noted that the financial management report is not subject to an external audit."

511. The Controller explained that the document basically reproduced the documents prepared when the financial status of the Organization for 2010 and 2011 had been examined. The Financial Management Report combined those two documents in order to provide member States with an overall vision of the biennium. The Controller added that, unfortunately, two corrigenda had to be issued, one concerning table 4.2 relating to the post and head count report and the second regarding the Madrid/Hague distribution. Unfortunately, Nigeria was quoted instead of Niger. The Controller apologized to Nigeria and Niger for this unfortunate error. The Controller drew attention to the table on page 7 of the English version which gave the main parameters. This table provided a summary view of what happened in 2008-2009 and 2010-2011 and the actual situation for 2010-2011 with the differences between actuals and the budget after transfers. There followed two pages on the reserves and the working capital fund, four pages of explanation of the budget, 13 pages on expenditure and then a number of pages which explained differences with regard to revenue. There were also details of Member States' contributions. This was information that could not necessarily be found in the budget. There were also tables showing the distributions made in connection with the charges levied for Hague and Madrid.

512. The Delegation of Spain thanked the Secretariat for the report. However, in the final section on Trust Funds, the Spanish fund could not be found. The Delegation of Spain wished to have this omission corrected before the document went to the Assemblies.

513. The Delegation of France thanked the Secretariat for the report which it considered to be one of the clearest and most useful documents in helping Member States have a clear idea of the way in which the organization is working. The document submitted by internal audit the previous day had also been very useful and easy to use. The Delegation noted that thought should be given to the implementation of the budget and how other organizations address this. Having three reports instead of five and having clear links between them or having annexes should be considered. It further noted that the cost of translation of documents should also be considered. The second comment concerned two small reservations: (i) the table in which the amount of budget transfers was evaluated, with a criteria of 5 per cent. The Delegation considered that the transfers were higher than 5 per cent for the majority of programs. As far as the reserves are concerned, the Delegation considered that the use of the reserves was in part

to cover expenditure which was closer to the actual budget than special projects and that care should be exercised in the future because the reduction of the amount in the reserve cannot be sustained. It recalled that all the amounts taken out of the reserves must be discussed, as was regular expenditure, and that strict observance of what was special and what was regular expenditure must be maintained. The Delegation noted that the present level of the reserve meant that great caution must be exercised about expenditure taken from the reserve in the future.

514. The Controller assured the Delegation of Spain that the Secretariat would investigate the question of the trust fund and would obviously correct any mistake found. In answer to the point raised by the Delegation of France, he acknowledged that the Committee was faced with a lot of documentation. As the biennium 2010-2011 had been the first under IPSAS, the Secretariat had tried to keep the same presentation of documents as usual in order to facilitate comparison with results in the past. The Financial Management Report showed the financial results for both 2010 and 2011. It was possible that, in the future, information would be presented in a different way, with fewer documents.

515. The Secretariat understood the concerns about budget transfers and was taking the comments very seriously. The Organization was following the regulations and rules accurately. As far as use of the reserves was concerned, a document on the policy for using reserves had been produced. In 2008, 2009 and 2010 Member States had approved a certain number of projects to be financed from the reserves. This explained why, over the years, expenditure against the reserves had been increasing. The Organization was as transparent as possible, explaining the situation year by year and showing the way in which the reserves were affected. The Organization intended to continue to use this procedure so that it could invest in long-term projects. The Controller acknowledged the comments from the Delegation of France concerning the need to be cautious with the use of reserves.

516. The Delegation of Spain stated that it shared in the concerns that were voiced by the French Delegation. In the Delegation's view some of the expenditures against reserves should rather come out of the regular budget. It considered that the current approach or policy made it possible to keep spending at a level which was higher than what the Organization ought to be rightly spending at this time of financial crisis. There were two factors to consider which could make the reserves "drop considerably" in its view. These were: possible expenditure related to the pension funds and work on buildings and, accordingly, the reserves had to be managed very carefully.

517. The Chair read out the decision paragraph: The PBC is invited to recommend to the Assemblies of the Member States of WIPO the approval of the 2010-2011 FMR, together with the corrigendum relating to Spain's trust fund.

518. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO the approval of the 2010-2011 Financial Management Report.

ITEM 12 STATUS OF UTILIZATION OF RESERVES

519. Discussions were based on document WO/PBC/19/8.

520. In introducing the subject, the Chair recalled that document WO/PBC/19/8 provided an overview of (i) the status of the reserves and working capital funds (RWCF) following closure of the 2010/11 biennium and the 2011 annual accounts; and (ii) the status of the reserves and RWCF appropriations approved by Member States to date. The document also contained a proposal, in paragraph 9, related to the utilization of the remaining balance of funds from one approved DA project funded under the reserves to another approved DA project.

521. The Controller added that the document showed the status of the Organization's RWCF as of the end of December 2011. Comparing it with the RWCF of 2010, one could clearly see the impact of IPSAS adjustments on the reserves. The document also contained some detailed information on the projects that had been approved: the expenditure incurred so far and what was available for the expenditure that had been incurred yet. There was also a proposal concerning one DA project, which did not use the totality of the funding that had been originally earmarked for it, where it was possible to save some funds, which could be used to fund another project that was originally to be funded through the regular budget. The money involved was 1 million Swiss francs. This proposal was made, as it were, on the fringes of the situation of the reserve fund. The Controller wished to draw Member States' attention to the table presenting the overview by Union. It showed that, initially, there was borrowing by the PCT on the Hague Union. This would be replaced with a loan from Madrid to the Hague. This was an internal mechanism that would not change in any way the totality of the reserve funds but would provide the Secretariat with greater coherence on the activities.

522. The Delegation of France, commenting on what had been said earlier, said that it was the Delegation's wish that this matter also be part and parcel of discussion on Program and Budget. The division between ordinary expenditure and expenditure out of the reserves and working capital funds had to stop. They should be looked at together. The Delegation indicted that the use of reserves should be looked at very conservatively. Modernization does not necessarily justify expenditure from the reserves. Likewise with the day-to-day life and running of the Organization i.e., the ordinary expenditure. It noted that it was very important to include, in the more systematic way, the various aspects of structure and matters of substance in the ordinary expenditure. The Delegation considered that, quite often, there appeared to be a drift between some changes in the IPSAS presentation and the exceptional expenditure. It felt there was a need to have a clear division in the context where a number of Member States were still having trouble understanding what IPSAS meant; what the impact of it was. There was a liability which the Organization was funding that from the budget. It recalled its position expressed last year, to see these liabilities in the reserves. It highlighted the need for care in proper presentation of the data and making a clear distinction in all of the documents, so the data was easy to read because it was giving rise to some discomfort to see the expenditures figures change with purely accounting changes.

523. The Delegation of the United States of America welcomed the summary information explaining previously approved and proposed uses of the reserve funds. It added that WIPO possessed a significant amount of accumulated reserves, a large portion of which was being invested in infrastructure improvements such as the new construction and conference hall projects. These were extraordinary undertakings for an international organization which the Delegation and Member States had supported. The Delegation reiterated its view that the use of reserve funds should be for extraordinary one time expenditures. However, given that the funds were approved for other DA projects, the Delegation indicated it would join consensus on the proposal to use the remaining balance to fund the DA project on an exceptional basis.

524. The Delegation of Spain indicated that it shared the wish to make sure that the reserves were not used to fund expenditure considered as ordinary. In its view the presentation of figures concealed problems in the budget. The figures showed 45.8 million Swiss francs deficit, which was a very large deficit, and if it were to continue there would not be any reserves left. To put it into perspective, it noted that the future obligations for the pension fund did not appear, which the External Auditor indicated could be 200 million Swiss francs. 172 million Swiss francs of the assets of the Organization were based, as it were, on the valuation made on the basis of IPSAS for the buildings and the land. The Organization would have to be very careful when it came to looking at the financial sustainability of the Organization in the short term. A few budget years with deficits, the constant use of the reserves and some present and upcoming challenges: the pension fund and major risks when it came to the appraisal of the buildings. The valuation may be correct or it may have been too optimistic. This may result in trouble earlier than originally thought and there may be some major shortfalls in the budget. This

combined with the very worrying world economic financial situation. The should start considering things, looking at the present and coming challenges in order to be ready when the time comes.

525. The Delegation of Mexico supported the proposal made in paragraph 9 of the document in light of the importance of the implementation of the DA projects. However, it joined the Delegations of France, Spain and the United States in saying that the use of the reserves must be exceptional, in the interest of sustainability of the Organization. It indicated the need for long term view and better clarity when it came to implementation of IPSAS. This was a learning curve and when there were changes, there had to be justification on the basis of IPSAS, and the separation of different types of expenditure must be very clear as well. The Delegation welcomed the frank debate and noted that this would hopefully continue. The Delegation further expressed the hope that the use of reserves would remain exceptional.

526. The Delegation of Japan supported the intervention made by the Delegations of France Mexico, Spain and the United States of America. It remarked that the IPSAS deficit of 45.8 million Swiss francs was due to the IPSAS adjustment of 7.8 million Swiss francs and expenditure for projects financed by the reserve fund of no less than 41.9 million Swiss francs. Bearing in mind that such management situation might not be appropriate, it cautioned that the Organization should continually review the planning and implementation of the budget, especially what the expenditure from the reserve fund should be.

527. The Controller apologized for the inadvertent omission of the Spanish trust fund from the listing in the FMR. He also confirmed that the omission did not change the final figures and that a corrigendum would be issued. Regarding what was said on the reserves, the Controller thanked the delegations that were willing to approve the proposal in paragraph 9. Regarding comments on the move to IPSAS, the Controller fully understood the difficulties encountered by the delegations and added that the Secretariat's difficulties were perhaps even greater because of two elements in IPSAS. He added that this was pointed out by several delegations. There were new accounting norms and they required the Organization to do things in different ways than in the past. There was a display and presentation, which could give rise to some problems in understanding of the financial statements. He noted, however, that the Secretariat would do its utmost to make sure that the understanding of the accounts be made as easy as possible. Regarding investments, in 2010 Member States had approved the investment policy. Member States had decided on a policy but not the figures. The Secretariat was applying that policy. If Member States wished to revisit that discussion and reopen the debate, that was possible, of course, but the Secretariat did not see the need as the policy was very clear. It defined the way in which the reserves could be used and that was what the Secretariat was doing. Member States had also decided on a number of projects to be funded out of the reserves in 2008, 2009, and 2010. The Secretariat was implementing these decisions and it may take four to five years in some cases. There will be expenditure out of the reserves. The Controller wished to make this very clear because he did not want member States to go away with a feeling that the reserves were used for the things that Member States did not approve. The Controller also reiterated that the Secretariat was exercising prudence and caution, doing everything possible to make sure the reserves will be sufficient, so that the Organization did not find itself in difficult straits. He noted that the Secretariat was making sure that discipline reigns in the Organization and the funds approved for the Organization are used in compliance with the approval.

528. The Delegation of Venezuela (Bolivarian Republic of) remarked that paragraph 9 of the document indicated the problem of the deficit of the Organization and the DA. It recalled that the DA was a commitment on the part of this Organization to the Millennium Development Goals (MDG) and the UN. It looked like the MDG would only be met in 2099 at this rate. In talking about the use of reserves for the recommendations of the DA, it seemed to the Delegation as if people were looking at this as a secondary problem, an appendix to the Organization. The Delegation asked the Organization how it would propose to make sure that the DA could actually be applied and enforced, bearing in mind that a lot of the recommendations that had

been made were still not being implemented in the Organization. The delegation highlighted that if there were some problems of deficit in the Organization, it was not due to the implementation of the DA, which, based on the definition of the UN for “development”, should actually be part of investment - investment in the most needy, in the people that need to be supported by this Organization.”

529. The Delegation of Spain, addressing the statement by the Controller said that it agreed with the application of the prudent investment policy. It noted that this would mean the use of the reserves in a very careful way. There had been a lot of drawing from the reserves and they had dropped quite considerably. The Delegation proposed to include these expenditures in the balance sheet, understand clearly what the expenditure was in the Organization and have a conservative appraisal of the value of the buildings. It reiterated its view that the appraisal of the buildings was a bit optimistic and noted the need to be conservative in the appraisals made. The Delegation called for some earnest efforts to identify savings within the day-to-day expenditure, e.g., translation and interpretation, where reductions could be made without jeopardizing the operation of the Organization, because the Organization needed to continue attaining its objectives including, of course, the DA.

530. The Chair read out decision paragraph in document WO/PBC/19 /8.

531. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to:

- (i) take note of the contents of document WO/PBC/19/8; and
- (ii) endorse the proposal in paragraph 9 of document WO/PBC/19/8.

ITEM 13 FINANCIAL OVERVIEW FOR 2012: PROGRESS REPORT ON THE IMPLEMENTATION OF COST EFFICIENCY MEASURES

532. Discussions were based on document WO/PBC/19/9.

533. The Chair summarized the contents of document WO/PBC/19/9, which provided an overview of the financial situation of WIPO up to the end of June 2012 and an overview of progress to date on the implementation of the cost efficiency measures foreseen to be put in place over the course of the current biennium.

534. The Controller introduced the document, noting that the end of June 2012 was the point in time when the Secretariat closed the books. Of course, the books were closed every month and the Secretariat followed very closely the evolution of the financial situation of the Organization every month. The document provided delegations with an idea of income and expenditure and how this compared to the budget on a yearly basis. It presented the real figures as compared to the budgeted figures, as well as the past situation of the Organization to show how financials were unfolding. This was to provide a picture of the activities of the Organization including the number of filings for Madrid, Hague and the PCT. Some comments on the level of expenditure, level of income and receipts and the staffing levels were also included. The document also incorporated a detailed report on the cost efficiency measures that had been adopted and implemented. The Controller drew the delegations' attention to the fact that, as of June 30, 2012, the income was greater by 6 million Swiss francs than budgeted. Expenditure was lower by about 21 million Swiss francs than originally budgeted. Of course, that was for the first six months of the biennium. However, conclusions could not be drawn yet and the Secretariat could not prejudge what was coming. The first six months of the biennium was the period when the Organization had spent the least of the 24-month period. When it came to income, the first six months were quite good but that did not mean that this trend would

continue. Hence, the Secretariat would be very prudent and would continue to demonstrate a strong discipline in the use of the Organization's funds.

535. The Delegation of Germany noted that the purpose of the document was two-fold: it provided information on the income, although this was not new because it was reported in the Financial Observatory every three months and was available on the WIPO website. The second issue was the report on efficiency measures. The Delegation commented that the Secretariat restricted itself to the proposals for efficiencies made by Member States, which had not been based on any analytical work but, more or less, on the experience of the delegates. It added that it had hoped that the Secretariat would go a little bit beyond, be more ambitious and look into other fields of savings not just the ones raised by Member States. This was not done. The other issue raised by the Delegation was that of structural savings, e.g., travel. The Delegation noted that if a regulation on travel was changed, that was a structural and permanent change and it would affect a future biennium. However, postponement of expenditure had no structural effect and the Delegation noted that a large amount of the savings offered was based on postponement of expenditure. It was not a structural saving that the member States requested. For this reason the delegation suggested changing policy to make savings and efficiency a top priority for the Organization and, in the long term, starting a dialogue with Member States and benefiting from the experience of many countries with budgetary problems which had come up with very creative solutions on savings. It reiterated the call for the Secretariat to find ways to look deeper and in a more structured way at the issue of cost savings and not limit it to the issues raised by Member States.

536. The Delegation of the Republic of Korea noted with interest that during the first half of 2012 WIPO income had risen by 26 per cent, including 8.3 per cent surplus against budgeted income. The Delegation also agreed that cautious approach should be maintained toward financial operations since we are still in the middle of global economic downturn. In this regard the Delegation commended the Secretariat for all their efforts to observe the cost cutting measures. It noted its understanding that during the first half of this year, PCT applications rose by 3.5 per cent but the income increase (table 2 on page 3) would be more than 8 per cent. The Delegation requested clarification on this matter. The Delegation further drew Member States' attention to tables on pages 7 and 6 (consultants costs) and table 8, consultants. There were 56 consultants in 2010, 49 in 2011 and 50 in 2012, but the cost of employment of consultants was 2.7 million Swiss francs in 2010, 3.6 million in 2011 and 4.5 million in 2012. In the Delegation's view WIPO spent bigger amount of money to employ consultants and it requested some clarification on these statistics.

537. The Delegation of Mexico thanked the Secretariat for the report and noted that quite a lot of progress was made in the layout of the document. The Delegation agreed with other Member States in that further improvements still needed to be made in order to make sure that the changes that are being proposed become structural over the long term. It added that, as the Delegation of Germany had said postponements of expenditure should not be presented as savings. It further stated that there were some things in the document that were not detailed properly. For example, there were some changes made in travel which could help the Organization and other organizations as well and could give rise to quite a sizeable saving in the future. Regarding the methodology, it welcomed the progress report but also need for prudence as expressed by the Secretariat. While it acknowledged that it was difficult to judge the situation over the first six month period only, it noted the areas where it had been possible to trim some expenditure. The Delegation recognized the efforts made by some divisions that enabled to bring about these savings. It further noted that these savings should not be wasted toward the end of the period, or be used in the last six months, for last minute expenditures. It noted the need to provide incentives to recognize the efforts made by officials and various departments so that these efforts become a lasting practice and give rise to lasting savings.

538. The Delegation of France thanked the Secretariat for producing this first report, particularly the part concerning efficiency savings. The Delegations noted that this was difficult

to do in a biennium and it was important to have this first document to [provide Member States with a view of the situation. The Delegation said that it would have preferred to have two separate documents as there were two separate subjects being addressed. In its view the current presentation complicated discussion. It noted that member States had access to financial details on the WIPO website. It thanked the Secretariat for the first report but remarked that this showed, both in substance and in form, that future reports should be stronger. It agreed with the Delegations of the Republic of Korea, Germany and Mexico, who raised the non-exhaustive nature of the indicators provided concerning areas in which efficiencies have been achieved. It is important that the Secretariat have an open view on the list of efficiencies and that member States do not to micro manage by providing a list that was too exhaustive and precise. The Secretariat should identify what was possible because Member States should not give instructions on this matter as it would constitute micro management. The third point raised by the Delegation was on the management premises. The delegation noted its discomfort with the fact that the document was equating the savings on the management of the premise with the maintenance of the premise. In the delegation's view postponing the maintenance of the premises only served to increase the final cost of such maintenance and that was not a true efficiency measure. While it acknowledged that some of the details certainly were efficiencies, but not the postponement of maintenance costs. It raised other points: first, the question of consultants, which was a recurrent theme. The Delegation highlighted that this area and the approach were still a bit vague, and that there were concerns about a number of consultants which the Organization needed to function. The second point was that the explanations provided by the Secretariat on the outsourcing of translation services were not convincing. It added that it was not completely convinced about the comparison between the internal and the external costs which were presented in the document. These costs were difficult to calculate. Even if there was outsourcing, the number and volume of documents still had to be reduced, with the agreement of Member States - but it felt that Member States did not focus enough on this point in their discussions. The Delegation noted that many Member States had asked for additional information and additional reports and, in its view, very few Member States other than the Delegation had considered that this could be reduced or presented in summary form. This was of concern to the Delegation, because it was one of the most important points in considering cost efficiencies, and, in its view, the Organization could gain quite a bit more saving in the area of documentation. The Delegation requested the Secretariat to advise how this documentary volume can be reduced in the future.

539. The Delegation of Spain thanked the Secretariat for presenting the document and added that it also agreed with other delegations that what was presented was good but perhaps not ambitious enough. As the German Delegation also noted, the preference would have been for the Secretariat to have identified other areas, not only those provided in the mandate e.g., as the Delegation of France had said, some possible savings through the reduction of volume of documents. The Secretariat is best placed to identify the areas where potential cost savings are "hiding". In the Delegation's view savings generated by postponing expenditure were not the right way to arrive at a cost reduction as this could give rise to lack of clarity. The Delegation further noted that when it came to the methodology of comparing, it would be good to look at the figures for 2011 and also one year back (2010), to see how the savings in 2012 would look like if compared all the way back to 2010. 2010 was the first year of the biennium and perhaps it would be better and more meaningful to compare 2012 and 2010. Regarding savings in different areas, the Delegation noted that 150,000 Swiss francs were trimmed from travel expenditure. In its view, it should be possible to trim even more fat off in that area. Regarding personnel related expenditure, the Delegation noted that there were also some personnel related areas where more could be done. The Delegation's message was the same as that of other delegations: it welcomed the efforts and we wanted to see more in order to address the various other pockets of cost reduction. It noted that, as the Controller had said, the income has been very good for the first half of the year. It expressed hope that the second half would be every bit as good, which was what increased the risk of and increase in expenditure in the second half of the year. The Delegation underlined the importance of continuing to maintain the effort and to keep up the pressure.

540. The Delegation of Japan appreciated the great efforts made by the entire Organization to make its administration more efficient. In the Delegation's view WIPO had accomplished cost savings according to the report on the implementation of cost efficiency measures. On the other hand, the Delegation questioned whether postponing the proposal to establish a building maintenance fund could be counted as cost savings or not. Cost savings measures, like the ones currently implemented in WIPO, and sound budgetary planning, must be implemented inseparably, just as a cart needs two wheels. Over the course of biennium a number of meetings would be held, which would cost a significant amount of money, as was the case every year. In this sense, the Delegation of Japan would continue to expect, and be concerned about WIPO's efforts to keep its administration efficient. In particular, the adoption of the new language policy imposes on the Organization the duty for translation of large volumes of documents. As a result, WIPO would inevitably have to make great efforts to limit the number of working documents and their pages for WIPO meetings. In light of this difficult situation, and with a view to improving the situation in meetings such as CDIP (where so many documents presented were of a great number of pages), the Delegation indicated that it expected the Secretariat to reduce the volume of working documents in the aforementioned way, which would eventually lead to both appropriate workload reduction on Member States and cost rationalization in WIPO.

541. The Delegation of the United States of America thanked the Secretariat for the overview of WIPO's income and expenditure thus far, for 2012, and was glad to see the Organization was in good financial standing. The Delegation commended WIPO for beginning to implement cost efficiency measures agreed during the 2012/13 budget process and expected WIPO to continue to look for ways to reduce expenditures so they do not exceed a 3 per cent increase over the biennium.

542. The Chair, in commenting on the Member States' remarks concerning documentation for WIPO meetings, said that Member States' message to the Secretariat had to be clear because Member States did sometimes give contradictory messages. Member States wanted documents and more information and they definitely wanted the languages. The Secretariat provided this and Member States say no, do not make the reduction in the documents. Member States had to bear that in mind that they were the ones demanding reports and the languages and then they also say wanted cost reduction. Of course, it was a tight rope; a better job could be done and there was room for improvement. But it had to be seen within that balance, so Member States could also be fair. This is Member States' Organization at the end of the day.

543. The Secretariat noted that the point the Chair made was a very key point. It noted that WIPO was an Organization driven by the Member States and, of course, the Secretariat responded to demands, and a lot of the demands were driven by documentation. This was one area where the Secretariat could make potential savings and rechannel those to give Member States more documents or more training courses in the Academy in different languages. All of this could be actually realized with the same amount of money if the documentation that was being provided could be rationalized. Not more and more but less and better. That was very much in the hands of Member States. The Secretariat would do whatever it could in trying to keep documents as short as possible (within ten pages). However, the Secretariat was also constantly looking at other ways to cut expenditure, whether in terms of productivity and efficiency, and looking at things to discontinue doing in terms of administration. It was looking at ways of streamlining and being more rational. At the Director's-General quarterly meetings we discuss the finances, the income statements and expenditures, to see where we are going and discuss what we can do better and worry about being prudent in these circumstances. The point made by the Delegation of France about micro-managing was well noted. The Secretariat hoped that from what Member States could see they get the impression that the Secretariat was going in the right direction. It was a work in progress. The secretariat had only been six months in to the process and Member States would judge next year what would actually have been achieved. The point raised by the Delegations on the issue of the postponement has been well

noted. It was a very valid point and the Secretariat would make sure that it did not present these postponement issues as issues of efficiency.

544. The Delegation of France, speaking on the volume of documents, suggested that there should be debriefing sessions after the PBC, the Assemblies and the major committees to see how proposals could be made to reduce the volume of documents. In its view it was up to Member States to be responsible when they asked for documents. In the roadmap of any organization such as a WIPO, there should be an item on the agenda on how to reduce the volume of documents connected with meetings. This was in the interest of everyone. It was fairly simple. This could be mentioned orally, at the beginning of the meeting and at a debriefing afterwards and see what lessons have been learned: what could be reduce and how.

545. The Delegation of Germany noted that the issue went beyond documents. The Delegation understood the Secretariat's point that demand was Member State driven and savings were eaten up by additional demand. It added that when Member States decide on a new study they do not know the price. The Delegation proposed to start any relevant document with information on the financial implications in order to make people aware of these; then they would be in a position to decide on the cost benefit. This had to be transparent so Member States knew exactly what costs were being incurred when a request was made. It was very easy do and then Member States might have second thoughts about whether they should go into an activity and whether it was worth the money.

546. The Chair remarked that this was the practice in the Human Rights Council. Before the Human Rights Council adopted any proposals, its secretariat presented their budgetary implications e.g., establishment of this commission would cost 2.5 million dollars, then the Council would say yes or no. The Chair recalled that when he had asked the Secretariat how much a study on governance would cost nobody had an idea. The idea of having a PBI on certain studies beforehand was not a bad idea as, sometimes, it could be a very small amount of money.

547. The Delegation of Venezuela (Bolivarian Republic of) agreed with the Chair that Member States' instructions to the Secretariat were at times a little bit contradictory. The Delegation thought that, as regards documents, the question was not what was printed but rather the quantity of it. The Delegation said that it received documents in Arabic, Chinese, English, Spanish and French and nobody read Arabic in the Delegation. It added that there were many documents, reports in all official languages that nobody was using, left over in the document center. It suggested improving the printing procedure. The Delegation also thought that making documents too short could be rather negative.

548. The Secretariat confirmed that WIPO practiced sending documentation electronically. It was only printed on demand. The Secretariat added that printing added a small cost in the production chain of a document. The most important factor was the volume: the size of documents and the volume of meetings which led to high costs of translation, revision, production, and then the dissemination, whether it was printed or e-mailed. The Secretariat thought that the idea of having debriefings, proposed by the Delegation of France, might be a good one.

549. The Delegation of Spain recalled that less than 6 per cent of the budget of the Organization was earmarked for conference services. There were other areas, e.g., human resources, with large potential savings. By focusing on documents only, although important, members might be losing the sight of the forest because other areas actually counted for the bulk of expenditure.

550. The Controller confirmed that the message "be cautious" was received. He was glad to hear it because this will help the Secretariat to further strengthen this message in-house. As far as postponing expenditures is concerned, he noted that the Secretariat had taken the

comments on board. The Secretariat agreed that these should not be seen as savings. On the question of consultants: there were a certain number of ongoing projects (computer projects or projects concerning the risk issue or internal audit) and the Secretariat did not necessarily have all the expertise in-house, nor the best experts for managing these projects. In these cases it called on consultants who could provide the necessary information on the way these projects are evolving and have the knowledge that may not be available in-house. Looking at the expenditure on consultants, this should not be looked at in isolation but within the context of overall personnel costs. As far as the comparison was concerned, the Controller drew member States' attention to the fact that there were comparisons with 2010 and 2011 and the first six months of 2012. On the question of documents and translation: the Director-General had mentioned this and delegations had answered that question. The list that the Secretariat presented to Member States was from the time when the Assemblies adopted the 2012/13 budget. There were other ways of making savings that the Secretariat would be looking at, such as making savings on energy, storage costs, the number of envelopes we use and so on. The Secretariat was already pursuing savings on many subjects in order to see where savings could be made. The Controller thanked the Delegation of France for its understanding concerning the presentation of the document. The Secretariat wanted to link up the two subjects (financial overview and efficiency measures) and not produce two separate documents because, during the biennium, it is very difficult to quantify savings achieved. The Secretariat wanted to present the avenues it had been exploring, what Member States had indicated they want and what the Secretariat had done. It is very difficult to put a figure against every heading each time. The Controller noted that he heard what had been said, i.e., that there were not enough figures and not enough detail. This was why the tables on expenditure were linked up to the tables on revenue, with the information concerning the cost efficiencies. The Secretariat has not, however, been able to attach a figure in each case. As far as expenditure was concerned, there was a table, in particular table 6, which provided a list of expenditures by cost category. It was very difficult to be more precise about that because there would be too much detail. The Secretariat has tried to be as accurate as possible and provide as much information as possible. The Controller noted that he had taken note of what had been said with regard to the need to be sensitive to the need for savings. He also noted what the Delegation of Germany had said that each time there was a request for a project it should be accompanied by an estimate of costs. If Member States wanted to have a study on governance and asked how much it would cost, it would be difficult to say what the figure would be. The Secretariat would need to know exactly what such a project or study would imply, what would be the objectives, what kind of report would be expected. So it was always a bit difficult. The idea was an attractive one but to actually put that in to practice the Secretariat would have to have a very accurate knowledge of the needs connected with a particular study or a project. That was a question of common sense, but the idea was certainly attractive and the Secretariat would certainly explore this further, if it is possible, when there were requests for additional work. The Controller also agreed with the Delegation of France regarding the debriefing concerning documentation after the meetings of the PBC.

551. The Delegation of Venezuela (Bolivarian Republic of) wished to go back to the comment of the Delegation of Spain on the 6 per cent of the budget for language and conference services. The Delegation said that it was not a large amount of money and that it was important for delegations to work in their own language. The Delegation noted that members wished to keep the six languages and in this way we could avoid providing contradictory messages to the Secretariat."

552. The Chair concluded discussion of this agenda item and read out the proposed decision.

553. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/9.

ITEM 14 LONG-TERM FINANCING OF AFTER-SERVICE HEALTH INSURANCE IN WIPO

554. Discussions were based on document WO/PBC/19/23.

555. The Chair said that the document presented options for solving the Organization's financing liability resulting from the payment of after-service health insurance to former WIPO employees. He invited the Controller to introduce the said options.

556. The Controller explained that when the Organization had made the move to IPSAS, the Secretariat saw that there was a strong commitment to shoulder a certain number of costs to provide for the social security and the continued health care of its staff members in the future. This amount of funding had been calculated by actuaries and had been quite substantial. The Organization had already assessed this in the previous years and included a budget line (a certain percentage of staff related costs) in order to fund this activity i.e., after-service health insurance (ASHI). When the actuarial cost had been calculated by the independent actuaries the Secretariat noticed that: First, the cost turned out to be quite a lot higher than what had been calculated earlier and showed an upward trend. This upward trend would continue well in to the future due to a number of factors that Member States were familiar with, e.g. increased life expectancy. The Secretariat wondered whether it should continue what it had been doing - earmark (and pay) a part of the budget against this potential actuarial long-term debt - or go further and propose solutions which could be less painful for the Organization, quite easy to implement and which would make it possible to solve the problem over the long term. The Organization was in quite a positive situation because it could do this: there were sufficient resources and a possibility to solve this issue by adopting various measures that would solve this problem over the long term. The proposal contained in the document hinged on some basic ideas. What the Secretariat wanted to do was to set up a separate entity which would be funded by WIPO. The corresponding debt would be removed from the WIPO budget. This entity would: (i) have all the assets and the liabilities; (ii) it would be possible for the cash paid into it to generate interest; (iii) a regular amount would be paid in from the budget and the separate entity could make it possible to shoulder that future debt. The funding should cover the debt for ASHI. This, in a nutshell, was the purpose of the proposal. The Controller added that the decision was in Member States' hands and clarified that setting up of a separate entity was one of the options that the Secretariat had examined. He said that the classic conventional way was to take a percentage of the budget and say that this amount would offset that debt, the future obligation. The Secretariat wished to show that there also was the possibility of funding a separate entity to cover that obligation. Those liquidities could be invested, with a more long term approach, so as to be able to keep pace with the increase of the debt engendered by ASHI. The Controller added that the Secretariat had spoken with a number of delegations, who raised questions and made suggestions. He believed that some delegations understood very clearly what the issue was and was looking forward to hear the delegations' comments on the proposals put forward in the document.

557. The Delegation of Germany recalled that ASHI issue had been preliminarily discussed in the informal meetings and there was an understanding that the proposal was not yet ripe for decision. It was just too early to come to that stage. The IAOC also mentioned that the subject should be up for discussion but it was not ready for decision. The Delegation pointed out that although the Controller said that the amount increased a lot, it would keep increasing (up by 3 per cent minimum), so the proposal was very static. The figure quoted was 103 million Swiss francs at the end of 2011. If it was proposed to cover 103 million in 12 years, by then the liability might be 200 million if it increased further. Therefore, the supporting mechanism was not looked at. Something was missing. The Delegation recalled that the Controller had said that other organizations were examining similar concepts. The Delegation had looked at the practice in the WHO, where insurance premiums and medical bills costs were shared, there were 36,000 claims a year and the operation was high risk. It remarked that, according to its information, the WHO also had a different type of administration necessary to deal with such arrangement, with the administrative costs of 3 to 4 million per year. The Delegation pointed out

that the document did not mention of any administrative costs. It also wondered what the role of Member States or the staff would be in setting up, controlling and supervising such separate entity. It added that, as the next step, the Secretariat should start a dialogue with other organization to learn from their experience. It pointed out that a meeting was scheduled to take place in New York (in October/November) to examine the ASHI issue UN wide. The delegation suggested waiting until the results of the meeting become known. It felt that it was too early to decide, to make judgment on the concept, as Member States did not have all the necessary information to take an informed decision.

558. The Delegation of Spain recalled that it had, on other occasions, voiced its concern regarding liabilities borne by the Organization, which in the medium to long term could considerably weaken its financial standing. That was why the Delegation welcomed the document, which recognized that there was a problem and a desire to deal with it. The Delegation added that, during the meeting it had with the Secretariat, the Secretariat promised to provide more information on the implementation of IPSAS 25 and the proposal itself. So far this information had not been received. The Delegation then voiced its technical concerns regarding the proposal. Although it understood what the Secretariat was driving at it did not completely comprehend the substance of the whole matter. It supported the statement made by Delegation of Germany and noted that the proposal had no charts showing how the money would be paid in to keep step with the needs. It considered that no solution was proposed how to deal with the future financial demand. The Delegation remarked that there might not be enough time at this session for all delegations to voice all of their concerns. It inquired whether this separate entity would be set up under the Swiss law. It pointed out that first, Member States had to bear in mind that the entity would have a liability of 50 million Swiss francs, and, in fact, even more than that. It would be 103 million Swiss francs. Therefore, 50 million Swiss francs would be coming off the budget, which would be a liability for WIPO. Member States needed to examine the assets and the liabilities and what was going to happen with the other 53 million Swiss francs. The Delegation's second concern was that there could be more liabilities coming up. This point was far reaching. Referring to the explanation provided in the document on the interest earned by the funds, it was not entirely clear to the Delegation how the funds on WIPO's balance sheet had very low remuneration at present but once the same funds were put into a separate entity their yield would be much higher. It remarked that, in its opinion, whether the money was within WIPO or outside of it, it should render the same yield. It suggested investing the funds on WIPO balance sheet the same way as proposed for the separate entity, which would put the Organization in a better financial standing.

559. The Chair said that, according to the informal consultations that he had with delegations, there did not seem to be much willingness to adopt the proposed option at this session. The Chair suggested listening to all the delegations' interventions on the subject, which could provide useful notes for the Secretariat. The decision text could say that the PBC examined the options presented and requested the Secretariat to revise the paper, taking in to consideration comments made, and present the paper to the next PBC.

560. The United States of America raised questions concerning the proposed options and thought that the solution proposed by the Chair might be the best. It appreciated all of the hard work that the Secretariat had put in to the analysis of options to provide long-term financing for after-service health insurance for their former employees and families. The Delegation was committed to ensuring that long-term liabilities were met. The approach was to take into account the fiscal realities of the Organization and its members. It should be noted that funding of the liability for after-service health care was a concern throughout the entire UN system. The Delegation was closely monitoring how this issue was being handled in the UN budget in New York. The Delegation said that it should also be noted that IPSAS implementation required recognizing certain liabilities but did not require that the liabilities be fully funded and that there was no time-frame for funding that was set aside for ASHI. The Delegation further added that it would continue to follow the situation but did not think it represented a crisis. The Delegation said that it was more supportive of the general approach, taken up in option 3, operating

separate funding for the ASHI liability. But, as stated earlier, it would first like to see how ASHI was addressed by the UN General Assembly. On option 4 (WIPO's preferred option), the question was how would WIPO ensure that the status of the entity was transparent to Member States? Would information about it be incorporated in to the Organization's annual financial statements and be just as transparent as it was now? Just as importantly, if WIPO had 50 million Swiss francs available to fund this liability, could it not utilize that option under option 3. How would WIPO propose a charge of 6.5 per cent of payroll costs to fund ASHI liability? WIPO had already pointed out that the previous rate was reduced from 6 to 2 per cent due to specific financial constraints anticipated for this biennium.

561. The Delegation of Japan stated that the document explained that the option 4(b) recommended by WIPO would work well. However, in order to properly operate a separate entity set up under this option, an essential governance mechanism should be carefully planned in advance for such entity to work properly and be agreed to by Member States. In addition the ASHI agreed liability reached 103.4 million Swiss francs at the end of 2011. Taking this in to consideration the Delegation was of the view that the Secretariat should share more details on option 4(b) with Member States so that they may consider this option further.

562. The Delegation of the United Kingdom thanked the Controller for answering their questions in advance of the meeting and said that it would encourage other Member States to do the same. The Delegation was pleased that the Organization had brought the issue of ASHI forward. It added that the cost of ASHI commitment made to staff had to be paid through whatever mechanism was chosen. Member States should recognize the cost as earned, and this was important considering the rapid growth of the costs. The liability for past costs was in the statement of financial position and, as it fell due, would have to be met from the assets. Ideally, the Delegation would prefer a separate fund to meet these. It believed that option 1 left things as they were, which ultimately meant that it reduced the reserves. Option 2, increased contribution, was better as it recognized the cost of reducing the unfunded liability and had a smoothing effect. However, it would not bring forth the result. Option 3, which was the Delegation's preferred option, provided separate funding, seemed a good option, would have a steady contribution rate and was a relatively risk free. Option 4 seemed unnecessarily complicated. The separate entity could be set up as a long-term benefit employee fund under IPSAS but, while this would be netted off against the IPSAS liability, the Delegation struggled to see how it would assume the liability. If the entity failed, the liability would still be in WIPO. The only advantage appeared to be presentation with assets and liabilities netted off. The IFRS standards would remove this and ultimately IPSAS would follow. Whatever option, none of these deflected from the reality that WIPO had the availability to meet the requirement. The Delegation considered it prudent on the part of the Secretariat to have addressed this issue at present.

563. The Delegation of France concurred with the Chair's summary of the discussion and added that it was not ready to adopt any options. At the same time it thanked the Secretariat for the document, and the explanations under the Q & A paper given on this subject. That was the first item on the Q and A, which, in fact, enabled Member States to come away with a lot of understanding of the subject. The Delegation believed that Member states had to hand it to the Secretariat - there was no document yet on ASHI. It was the first one. It was a bit of a blazing of trails. Discussions had been going on for a long time. There would be a UN session in November to discuss how to fund such expenditure, and this would place WIPO in the position of proposing a majority scenario depending WIPO's funding which was quite different from that of other organizations (looking at the sources of income). Regarding the four options, the Delegation said that it was not going to make any decisions. Concerning option 1, the delegation was in total agreement with the description that was provided. It was true that Member States had addressed this last year and spoke on the move from 6 to 2 per cent. It was not actually justified by the context. If provision were to be provided out of the reserves then it would have to be budgeted through savings in the budget. It would not mean a reduction in the reserves. It would mean some additional savings, amounts would have to be trimmed

from the budget and expenditure. The option that looked the best, in the delegation's view, was option 2, which was quite close to what was done by Member States. It was true that while it was painful it was nevertheless a direction that Member States were going. The Delegation's preference would be option 2 because of the risk borne by options 3 and 4, which were more complex because of the governance structure and would have to be audited and watched. For those reasons the Delegation was not be in favor of option 3 or 4 at the present: they were too cumbersome. The delegation believed that the proposals were a work in progress. It recommended that Member States examine the documents available on the UN website for the agency heads and at various public organizations. All the issues were presented and explained in them and reading them would provide better understanding of the ASHI issue and would help avoiding asking the same questions over again.

564. The Delegation of Mexico said that funding ASHI was an important and complex issue on which the Delegation was happy to be a part of a dialogue. It supported the Chair's proposal that members had to continue discussing this, but that this was beyond the scope of today's meeting. The Delegation also wished to raise questions: There was a question raised by Spain regarding the transfer of 50 million Swiss francs only. Would that be enough over time? The question raised by the United States regarding the financing per annum of 6.5 per cent: where would that come from? If Member States had such information they would have a better technical understanding and be able to start looking at the ideal approach. However, the Delegation admitted that it was a bit early to take a decision. Member States needed to have more information regarding the fund and the financing. As far as the Delegation was concerned, it would need more detail on option 4 to understand how this would work in the sustainable long-term way.

565. The Delegation of Switzerland noted that the document contained a lot of information on very complex matters and a lot of delegations were not experts in accounting and finance. It thanked the Secretariat for the willingness to answer any questions the delegations had and added that they were very complex questions. The Delegation looked at this matter with great interest, could see how very important it was and thanked the Secretariat for dealing with this issue in a very proactive way. The Delegation saw the solution proposed in option 4 (setting up of a separate entity) interesting, which could provide the best prospects to fund ASHI quickly, bootstrap it and get it up and running because of the individualized funding provided under this option. It would make it possible to have efficient funding quicker as the revenues' income would be allocated directly to ASHI. In view of WIPO's specific situation and the liquidities that it had in terms of income, the Delegation thought that Member States should go into more depth regarding option 4, which looked good but more detail was needed. As other delegations, the Swiss Delegation was not ready to adopt it yet but would like to have a further document which was a further iteration of this one. The Delegation's questions were whether this entity would be set up under the Swiss or the French law, how it would be run and operated. It added that governance issue had already been already raised by other delegations. The Delegation also needed more information on what sort of investment would be envisaged: would it be the same sort of an investment seen in the past to remunerate these funds? In looking at option 4(b), Member States would have to look at the liability of WIPO as well. What sort of liability there was to the former staff members. For reasons of efficiency, the Delegation thought that a revised document would not need to examine all the options. It should focus on the option that raised the most questions.

566. The Chair read out the proposed text of decision on this agenda item.

567. The Program and Budget Committee (PBC) examined the contents of document WO/PBC/19/23 and requested the Secretariat to present a redrafted proposal at the next session of the PBC, taking into account the observations and comments made by the Member States.

ITEM 15 PROPOSED AMENDMENTS TO THE FINANCIAL REGULATIONS AND RULES

568. Discussions were based on document WO/PBC/19/21.

569. The Chair introduced document WO/PBC/19/21, which listed amendments that were being proposed to the Financial Regulations and Rules (FRR) in order to align the FRR with the International Public Sector Accounting Standards (IPSAS). Many of the changes concerned terminology only.

570. The Secretariat explained that it had looked through the FRR and brought in a series of very small changes in order to align the FRR with IPSAS requirements. The changes were essentially those of terminology. The Secretariat had also introduced an additional rule reflecting the fact that now, under IPSAS, the Organization had to deal differently with its fixed assets and inventory. The changes also reflected the fact that the accounts were now produced and audited annually.

571. The Delegation of Germany commented on some of the proposed changes. A change proposed for Rule 106.3, meant that there would be two different accounting systems in the future. There would have to be two documents and if there were two ways of presenting figures, how would they come together. What was the transparency for Member States as well as the auditor? What was really the effect of having two systems and the decreasing/increasing transparency. It was very hard to make an opinion on this, at the least. The Delegation wondered how those two different "streams" would come together at the end and how they were comparable. The Delegation further stated that in Regulation 6.1, part of 6.1 was moved into Regulation 6.6, except for 6.1(c), assets and liabilities of the Organization and asked why these had to be deleted when transferring.

572. The Controller, in responding to the Delegation of Germany's concerns said that the organizations in the UN family had decided that, for the time being, they would continue presenting a budget which was not in the IPSAS format (did not completely integrate IPSAS rules). The Secretariat believed that the presentation of an IPSAS budget would be much too difficult to understand as far as Member States were concerned. The solution, adopted by all specialized agencies which had moved on to IPSAS and the UN itself was that they would present their respective budgets in the usual format (the traditional one), which did not take into account the obligations arising from IPSAS. At the end of the millennium (or the end of the accounting period), there would be a reconciliation between the two. This was the reconciliation Member States saw in the WIPO accounts: one could see the budgetary figures and then the IPSAS adjustments, which were separate so there was balance between the budgetary accounts and the final financial situation.

573. The Delegation of Spain shared the concern expressed by the Delegation of Germany. It thought that the original accounting system was, in fact, far better than IPSAS. In explaining its opinion, the Delegation said that, this year, under IPSAS accounting, with the budget prepared on another basis, it was all very hard to understand. The budget should not be too hard to understand if the Organization did what it had done up until now. Where the Delegation agreed with the Delegation of Germany was that presenting the same accounts in two different accounting languages could give rise to problems of understanding. It recalled that, the other day, listening to the External Auditor's report, it had some problems in understanding because the parties had to speak in two languages. For example, if it said that there was budget surplus, what language it had to be said in? There had to be very clear rules. In fact, Member States had to examine both sides of things every year. Sometimes the pill was hard to swallow but, if the true situation was a deficit and things came across as a surplus, that was not good. For example, this year it was presented in one way and next year it would be presented in a different language. A surplus was shown in two years where there had been none. Presenting accounts in two different languages/formats was going to give rise to errors in understanding and presentation. What Member States wanted was transparency. This was what they needed.

574. The Delegation of France did not share the Spanish Delegation's interpretation of the matter. It recalled that, at the request of Member States it had been decided to have IPSAS accounts and a classic and traditional budget which was made IPSAS comparable. Although delegations could have their national preference, this was the line that was being pursued in all other organizations. Because of the financing mechanism of the UN, it would be too difficult and would create too many problems for Member States to have a budget presented in IPSAS format. The Delegation said that it was very clear for it and that it was not a question of not pointing out that there might be a problem. It added that that the important thing was to know the compatibility between the two presentations.

575. The Delegation of Spain stressed that it wished transparency and added that when it had concerns arising from a different type of accounting language, it did not want anything to stand in the way of getting clarification for its questions. The Delegation recalled that the other day there had been some problems with the External Auditor's opinion because it could not understand what certain charts showed: was there a surplus or was there a deficit? Was the income the budgeted income or not? It reiterated its support for what the Delegation of Germany had said i.e., that maintaining two accounting systems carried risks. It added, however, that if that was maintained (out of necessity), the Delegation would work with it emphasizing that in such case the presentation of the documents would have to be very clear.

576. The Secretariat, responding to the second question of the Delegation of Germany said that, in Regulation 6.1 it looked like, in moving the bulk of that regulation into Regulation 6.6, the assets and liabilities of the Organization had been dropped. However, this was taken care of where it stated "primary financial statements for the financial period" that would include the statements of financial position or balance sheet and would obviously include the assets and liabilities of the Organization. So there was no need to specify assets and liabilities separately.

577. The Chair read out the decision paragraph in document WO/PBC/19/21.

578. The Program and Budget Committee:

(i) recommended the approval of the amended Regulations 3.13, 5.10, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 8.10 and 8.11 to the WIPO General Assembly listed in document WO/PBC/19/21; and

(ii) recommended to the WIPO General Assembly to take note of the amendments to Financial Rules and terminology used in the Annexes to the Financial Regulations and Rules.

ITEM 16 STRATEGIC REALIGNMENT PROGRAM (SRP) UPDATE

579. Discussions were based on document WO/PBC/19/22.

580. The Chair introduced the document which reported on the progress made in the implementation of the 19 initiatives comprised in the SRP, each contributing to strengthening of WIPO's four Core Values: Service Orientation, Working as one, Accountability for results and Environmental, social and governance responsibility. The SRP was launched in 2008 and will conclude in December 2012.

581. The Secretariat recalled that the SRP had been in progress for the past three years. The program had a portfolio of 19 initiatives which contributed to improving business processes, regulatory framework or internal systems to, in turn, strengthen WIPO's Core Values. The SRP was a complete program that will conclude at the end of 2012 and WIPO would measure the

performance of the program using the SRP results framework. Many achievements had been made during the course of the SRP to date. The Secretariat invited the representative of the SRP project management office to make a presentation. It also invited Member States to pick up a brochure, available outside, which detailed the 19 initiatives and the benefits which the Organization hoped to reap from them.

582. Another member of the Secretariat made the following PowerPoint presentation and recalled that the SRP stemmed from the JIU recommendation and subsequent GA decision of 2005 and 2007. Staff focused brochure "Taking the initiative" had been distributed in English and French to Member States in May, at the Director General's SRP briefing. In response to a request at that time, it was now available from conference services in all official languages. Some initiatives were always planned to continue independently (initiatives such as the ERP implementation) others, such as internal communications and internal controls had been found to have more opportunity than originally planned, which would be touched on a little more in the slides to come. Although the SRP would conclude as a portfolio of initiatives, the Core Values would continue to guide the Organization's work. The SRP had reported quarterly on progress to the IAOC. The SRP results framework which had appropriate links to the Organizational results framework provided the measurement framework during and at the end of this program. All of those documents were available to Member States on the Internet. The graphic visible on the screen showed how the initiatives would be integrated into the Programs at the conclusion of this year with the exception of the three just mentioned and which would bring benefits to the whole Organization. The Secretariat recalled that initiatives were grouped under the Core Value to which they contributed to strengthening the most and made a brief review of each Core Value, to see a few pertinent examples of what had been delivered to date and what was still to come.

Under value "Service orientation", WIPO now offered round-the-clock human contact for stakeholders by using follow-the-sun principles utilizing our external offices. In the period of the last 18 months, Core Publications availability in all required UN languages had increased from just over 62 per cent to over 70 per cent. A business continuity management strategy and a crisis management plan had both been approved and help ensure minimal business disruption and the continuation of our most critical services at all times. All four of these initiatives were to be integrated into work plans for 2013.

Under value of "Working as one" good progress had been made. The Enterprise Resource Planning implementation would be the subject of agenda item 19, and would continue after the conclusion of the SRP. The consultative group reviewing the revision of WIPO's Staff Regulations and Staff Rules had made particularly good progress in the past 12 months, with almost all chapters ready for submission to the Coordination Committee in October this year. The remaining two chapters were planned for review in 2013. The initiative to strengthen communications internally tackled two aspects, both the internal communication of the Director General and his administration to staff, and the communication between staff. That initiative had generated many staff suggestions, such as informal staff-to-staff information sessions and a revitalized "Tea with the DG program". 14 new sub-projects would continue as a separate initiative under Program 19.

Strengthening "Accountability for results" value; almost every sector had undergone an organizational design review, looking to fine tune the structure. WIPO RBM had also made clear progress, shifting the focus from planning to full lifecycle program management. Performance Management and Staff Development System had seen vast improvements in both operability and acceptance within the Organization. The improvements planned for Internal Controls and risk management were comprehensive, and this initiative would continue into 2013. A revised risk management policy had been drafted and a draft roadmap developed. Awareness sessions and interviews had begun with all SMT and Directors. The initiative to strengthen the management of financial resources had given the Secretariat a better

understanding of how the economic forecast mapped to revenue generated services and expenditure, and had encompassed policies such as the hospitality policy.

Finally, the value “Environmental, governance and social responsibility”; the Secretariat had, and continued to undertake, a series of environmentally conscious projects. The Ethics and Integrity system was now coherent and comprehensive – a code of ethics had undergone a wide consultation and had been issued, a whistleblower protection policy was under final review and a financial disclosure policy had been drafted. In the coming months, every staff member at all levels of the Organization would attend face-to-face ethics awareness training, with a specially adapted program for those in high-risk positions, such as human resources and procurement.

Looking forward, the Secretariat would integrate initiatives into Programs at the end of this year. Another staff survey would be run to measure the success of the SRP in terms of its ability to strengthen our Core Values, however the full benefits of the SRP would be in the medium term and might not be fully realized until future biennia.

583. The Delegation of the United States of America thanked Secretariat, for the presentation, which it found very helpful. The Delegation stated that WIPO's ongoing SRP process had worked to reform the Organization's programs, resources and structures with a new set of strategic goals. These had enabled WIPO to respond more effectively to the rapidly evolving, technological, cultural and geo-economic environment and as well as respond to the urgent global challenges of today which IP could have a role in addressing. Through the use of its four Core Values, the SRP had enabled WIPO to achieve its Strategic Goals and to provide global leadership on IP issues. In particular, the core value concerning accountability for results was key for WIPO in its work to achieve results and improve tracking of results and performance. The Delegation underlined its complete support to the recent actions of WIPO, undertaken to build a responsive and efficient organization i.e., to meet its mandate in providing global leadership on IP issues. In particular, the Delegation was pleased to hear that the establishment of a comprehensive ethics and integrity system had made a number of significant advances; namely, that an ethics office had been established, a Chief Ethics Officer had been appointed and steps were under way in the development of a whistleblowing protection policy (WPP). Nonetheless, the Delegation was concerned that WIPO remained one of the very last UN organizations to implement a robust framework for the protection of whistleblowers from retaliation. WIPO's policy had been under development for nearly a year with little progress. the Delegation had hoped that finalization and implementation of the whistleblower protection policy would take place before the October Assemblies. It still hoped that was the case. WIPO's whistleblower protection policy ought to draw from established best practices, including, *inter alia*: zero tolerance for retaliation, through an explicit statement in the policy that retaliation against whistleblowers constitutes misconduct; independent and transparent process for determining whether retaliation had occurred, taking in to account the interests and due process rights of staff; timely inquiries into complaints of threatened or actual retaliation; interim relief granted to whistleblowers pending the outcome of an independent inquiry by the ethics officer; timely and effective follow-up in cases of retaliation, referring cases of retaliation or threat of retaliation to the JIU in cases where the IAOD declined to undertake the investigation; and finally, to undertake modalities for the ethics office or IAOD to investigate or to undertake reviews of allegations brought against the executive head of the Organization, including reporting the outcome of the investigation or review directly to the Chair of the GA. Information concerning the timeline for the new whistleblower protection regulations and its implementation, as well as detail on its comprehensiveness were all appreciated. The Delegation would welcome a chance to review the draft at the earliest opportunity.

584. The Delegation of Japan appreciated that the SRP had been steadily progressing with the tireless efforts made by WIPO. It fully endorsed the intensive promotion of the SRP. It expected that the SRP would eventually enable IP protection to effectively promote creativity and innovation and solve global issues through creativity and innovation. This Delegation

expressed its government's high expectations for WIPO to accomplish this important mission.

585. The Delegation of France approved the statement of the Delegation of Japan. The challenges faced were not abstract. This was a very important matter of substance for IP. The document made reference to a lot of major ongoing tasks and projects. There were three key words of importance for the Delegation; first, appropriation by different agents; second, concrete implementation in the field; and third, concrete measurable and identifiable gains in the next upcoming cycle.

586. The Chair invited the Secretariat to respond to the matter of ethics.

587. The Secretariat responded that an active consultative process on the whistleblower protection policy was ongoing. Consultation had been held with the WIPO Staff Council. The document was under a second consultative process with the Staff Council. The Secretariat hoped, subject to the comments received, to be able to move forward. The Secretariat recognized that the policy was an important part of the ethics program at WIPO and appreciated the interest being shown by the delegations.

588. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/22.

ITEM 17 PROGRESS REPORT ON THE NEW CONSTRUCTION PROJECT

ITEM 18 PROGRESS REPORT ON THE NEW CONFERENCE HALL PROJECT

589. Agenda items 17 and 18 were discussed together.

590. Discussions were based on documents WO/PBC/19/12, WO/PBC/19/13 and WO/PBC/19/24.

591. The Secretariat referred to the most recent Progress Report on the New Construction Project and New Conference Hall Project (set out in document WO/PBC/19/24), which updated the progress reports prepared for each of the Projects in May 2012. This most recent update also responded to specific queries raised by Member States on the occasion of the informal PBC briefing held on September 3, 2012, as well as to queries raised by the IAOC on the occasion of its session held from August 28 to 31, 2012. The Secretariat recalled the chronology of events which had led to the termination of the contracts between WIPO and the General Contractor at the end of July 2012, the options available to the Secretariat and how the Secretariat was now proceeding to ensure completion of the projects. The path of escalation, which had included a series of meetings at high level, extensive advice from an external law firm and a formal meeting between the two CEOs, had resulted in a jointly agreed and amicable termination of the contracts for both projects. The Secretariat had addressed the matter as a risk management issue and had looked at the best ways to mitigate the risks in terms of time, budget and quality, in particular for the New Conference Hall Project, noting that the New Building was approximately 96 per cent completed. The analysis of the situation had already shown that, in respect of the New Conference Hall Project, 70 per cent of the construction works had already been contracted at fixed 2010 prices (on the basis of the fixed price contract between WIPO and the former general contractor), leaving only about 30 per cent of construction works left for new tenders at 2012/2013 prices. The Secretariat felt very confident that it could manage that project without a general contractor by choosing the so-called "classical mandate"—which was a very well known and frequently used model in Europe and other parts of the world—relying more on the pilot, the architect and other specialized firms of

engineers. In terms of quality, budget and time, the Project could be completed with risks mitigated in all of these areas, albeit with a six-month delay in delivery of the construction, including the delays caused by the general contractor.

592. The Delegation of Spain wished to better understand the reasons why the Secretariat had decided to terminate the contractual relations with the general contractor. The Delegation was interested in hearing more about the advice given by the external law firm. The Delegation was also concerned by the risk of additional cost caused by such a change in the project management, as well as by questions of compliance with Swiss legislation regarding building and occupancy permits, and liability in respect of worksite safety.

593. The Delegation of France stressed that it was difficult to formulate an opinion at this point, in view of the fact that the matter had been brought to the attention of delegations only recently, but it nevertheless considered that a pragmatic approach had to be found. It regretted that the Secretariat had not consulted with the Member States at least informally in advance. The Delegation recalled that it had already voiced some reservations regarding the New Conference Hall Project in the context of availability of conference facilities in Geneva. It also expressed concerns in respect of the risk of additional cost that could be incurred through the change of project execution management. While reiterating that a pragmatic approach was needed, the Delegation noted that Member States had only heard one separate assessment on the situation, that given to them by the IAOC.

594. The Delegation of the United States of America indicated that it had some reservations in respect of WIPO taking on the role of a general contractor: for example, how would the Secretariat assure that it had the in-house expertise to complete the project, including identifying and mitigating any remaining risk that would impact the project schedule and costs; how would the Secretariat ensure that it could complete both projects in less time and for less money than a general contractor; how would the Secretariat ensure that the projects would be completed within the approved budgets

595. The Delegation of South Africa supported the interventions made by the Delegations of Spain and France in respect of consultation of Members States before termination of the contracts. The Delegation noted that it had first learned about the matter at the informal briefing given by the IAOC, which had indicated that it was not yet in a position to assess the risks of WIPO taking over the project execution. The Delegation felt it could not express support at this point.

596. The Delegation of Japan asked the Secretariat to ensure that the defects on various installations and equipment of the New Building which had still not being repaired would be dealt with in due course. The Delegation stressed that the Organization should avoid any further expense in this regard. On the other hand, while the Secretariat seemed prepared to carry out both the New Construction Project and the New Conference Hall Project without any general contractor, the Delegation could not help but express concern that an Organization which specializes in IP did not necessarily have enough manpower or expertise on construction matters, the task could be too burdensome for the Secretariat to carry out in a safe and secure manner.

597. The Secretariat recalled the rapid escalation of events, culminating at the end of July with the termination of the contracts, and the fact that it had informed the Chair of the IAOC and the Director of IAOD in the days following the settlement. The Secretariat was very confident that it could deliver the New Conference Hall Project within budget, reiterating that 70 per cent of the construction works were locked in at 2010 prices, leaving only 30 per cent to deal with at today's prices. The Secretariat recalled that WIPO owned several buildings for which it had been over the years managing the maintenance and the upkeep directly or through outsourcing contracts to technically specialized companies. There was an in-house infrastructure in place to deal with a wider scope of contracts in respect of the various construction projects. The Secretariat said

again that it felt quite confident that the reinforced mandates for the pilot, the architect and the other technical experts, under the “classical mandate”, as well as the internal management structure, headed by the Construction Committee chaired by the Director General, would ensure that the projects were moving ahead and would be properly executed according to the quality, cost and time requirements, as had been the case for the New Building. The consequences of interrupting the existing contracts for the New Conference Hall Project with the sub-contractors of the former general contractor would have meant renegotiation of all contracts and payment of penalties and/or compensation in respect of the 70 per cent of the contracts which had already been awarded by the general contractor at 2010 prices. Proceeding otherwise would have resulted in a much higher cost for the Organization, in addition to a significantly longer delay in completion. The Secretariat recalled its proposal contained in document WO/PBC/19/24 to the effect that monthly informal briefings would be given to Member States on the New Conference Hall Project, with the aim of giving Member States the level of comfort and confidence they wished to have *vis-à-vis* the project implementation and delivery. The Secretariat confirmed that, from the viewpoint of responsibility, liability, health and safety on the worksite, all the relevant coverages were already, or would be, in place by the time the worksite reopened, as required by law. Swiss law and regulations would continue to be complied with in terms of building and occupancy permits, as had been the case for the New Building. WIPO would obtain bank guarantees from the former general contractor for works done before termination of the contract, as well as individual bank guarantees from the future contractors for their respective areas of works. In response to the questions raised concerning the advice given by the external law firm, the Secretariat confirmed that the latter had fully supported the Secretariat in taking action, such as by issuing legal notifications with legally binding deadlines in respect of remaining works for the New Building. Since the general contractor had not complied on several occasions, the Secretariat had been concerned by the risk of being faced with the same situation on the New Conference Hall Project in the coming months. In this case also, following advice from the law firm, legal notifications were issued to the general contractor in respect of compliance with the architectural design of certain features of the New Conference Hall Project, which the general contractor did not comply with. After the termination of the contracts with the general contractor, the Secretariat was now reviewing all contracts with the sub-contractors to assess whether it would take them over, noting that the original terms and conditions (in particular the price) offered to the former general contractor would apply to the new contract between WIPO and each new contractor (as had been provided for in the contract between WIPO and the general contractor in case of termination). The additional honoraria for the extended professional mandates for the pilot, the architect and the specialized engineers would be covered by funds becoming now available as the amount of certain honoraria and fees would no longer have to be paid to the general contractor.

598. The Delegation of Spain, while taking note of the fact that a decision had been taken by the Secretariat to rescind the contracts on a friendly basis, emphasized that the projects should be implemented without any further delays and within the approved budget. Having said that, the Delegation regretted that the Secretariat had not informed Member States earlier and in more depth about such an important decision. The Delegation asked the representative from the IAOC whether she could comment on the matter.

599. In response to a question raised by the Delegation of Spain, the representative of the IAOC noted that the main reservation of the IAOC at its last session had been that, albeit it had received information from the Secretariat, the cost of seeking another general contractor had not been presented for comparison purposes with the option without a general contractor. During the IAOC session, the Secretariat had provided the IAOC with more detailed information on the issues as well as the basis on which the decision had been taken to proceed without a general contractor for the New Conference Hall Project. The representative of the IAOC recalled that the report of the IAOC session stated that the IAOC would continue to oversee the project, in particular, what had gone wrong and what could be done in future in order to put in the adequate structure to reinforce the project management.

600. The Delegation of the United States of America requested the inclusion at the end of the recommendation relating to Agenda item 18 of the following words: “with the following assurances: (i) WIPO will have monthly written reports, and monthly briefings with Member States to update the status of the project, and (ii) the Secretariat will provide a more detailed explanation of the events that led to the termination of the contract for historical reference”.

601. The Chair read out the proposed decision in respect of agenda item 17.

602. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of documents WO/PBC/19/12 and WO/PBC/19/24.

603. The Chair read out the amended text of decision in respect of agenda item 18.

604. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of documents WO/PBC/19/13 and WO/PBC/19/24 with the following assurances concerning the new conference hall project: (i) WIPO will provide monthly written reports, and monthly briefings with Member States to update the status of the project; and (ii) the Secretariat will provide a more detailed explanation of the events that led to the termination of the contract for historical reference.

ITEM 19 PROGRESS REPORT ON THE PROJECT IMPLEMENTATION OF A COMPREHENSIVE INTEGRATED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM IN WIPO

605. Discussions were based on document WO/PBC/19/14.

606. The Chair specified that the document contained a progress report on the implementation of an enterprise resource planning ERP system in WIPO covering the period since the last PBC session in September 2011. He invited the Secretariat to proceed with the presentation of this agenda item.

607. The Secretariat presented the following progress report. In 2010, the GA had approved the ERP portfolio which was over five years with a budget of just over 25 million Swiss francs with four major objectives. Regarding Human Resources management, since the last update a year ago, the achievements were: a functioning prototype, which had enabled many of the staff to see the systems, the functions and the concepts that the new solution would bring, and to help them understand some of the key decisions that they would have to make. The governance process had been established and the implementation partner, selected through an international RFP process, was on board. For the rest of this year the Secretariat planned to complete the design and build the core HR and payroll solution. It would go live in 2013 and would start the next phase of HR.

Within the RBM area, the achievements were: the 2012 work planning was completed using the new tools, which helped the Secretariat be more consistent, coherent and robust. Work plans could now be analyzed by a number of different dimensions, which had not been possible previously, such as by country or expected results. The implementation team was on board. In terms of moving forward, the plan was to develop the tools to support the 2014/15 biennial planning process, enhance the existing tools for the 2013 work planning and implementation monitoring process, and then to develop more tools to support the performance assessment and data tracking.

In the AIMS enhancements stream, the solution to the latest version 9.1 had been successfully upgraded. 250 users had been trained in terms of the business processes, and how their work linked into the solution and those business processes, which had been very successful. The Secretariat had started the chart of accounts redesign, which was in support of

some of the initiatives like the RBM, which would be implemented in two phases. Phase 1 would continue this year and phase 2 would be due in 2013. The aim was to give users easier access to the solutions, and there was going to be many of the solutions, so the Secretariat was starting something called identity management. This was successfully piloted and would be rolled out during 2012 and 2013. As regards the business intelligence infrastructure, which was to enable improved reporting and information access to staff managers and to Member States, infrastructure had been established and the Secretariat was starting to pilot some of those reports internally with finance and procurement.

In terms of the overall ERP portfolio approach, some of the key messages were: a strong governance process was in place, with reports to the ICT Board chaired by the Director General. The Secretariat involved the ICT group on a daily basis, trying to make sure that the solutions implemented were sustainable. There was a very clear blueprint of how to move forward, and the Secretariat was following some very strict architecture principles to make sure that there was flexibility and consistency. The Secretariat was trying to be agile by delivering as early value as it could to the business throughout these projects. The staff was trained to use the new tools to get the full advantage and benefit of those.

In terms of the budget and schedule, of the original budget of 25.34 million Swiss francs, just over 7.4 million Swiss francs had been committed to date. Spending was slightly lower than originally planned. The Secretariat expected to complete the portfolio within the approved budget. In terms of the five-year schedule, The Secretariat expected to complete the work within that five-year schedule, although the work probably started a little slower than originally expected.

608. There were no comments on the presentation by the Secretariat.

609. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/14.

ITEM 20 PROGRESS REPORT ON THE SECURITY UPGRADE PROJECT FOR THE EXISTING WIPO BUILDINGS

610. Discussions were based on document WO/PBC/19/15.

611. The Chair introduced the document by saying that it contained a progress report on the project to upgrade the safety and security standards for the existing WIPO buildings covering the period since the last PBC session in September 2011.

612. There were no comments made on this agenda item.

613. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/15.

ITEM 21 FINAL PROGRESS REPORT ON THE IMPLEMENTATION OF IT MODULES TO ESTABLISH COMPLIANCE WITH THE NEW FINANCIAL REGULATIONS AND RULES (FRR) AND INTERNATIONAL PUBLIC SECTOR ACCOUNTING STANDARDS (IPSAS)

614. Discussions were based on document WO/PBC/19/16.

615. The Chair recalled that the document contained the final report on the so-called FRR-IPSAS project, which was approved by the Assemblies in December, 2008. The project went live on January 15, 2010 and closed in February, 2012.

616. The Controller added that all the information was contained in the report, in particular the fact that this project was completed in time and within budget. There was a small part of the budget left over, which was going to be put into reserve.

617. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to take note of the contents of document WO/PBC/19/16.

ITEM 22 ADOPTION OF THE REPORT

618. Discussions were based on document WO/PBC/19/27 Prov.

619. The PBC reviewed and the text of decisions as read out by the Chair. The adopted decisions appear under each agenda item. The PBC adopted the Summary of Decisions and Recommendations (appearing in document WO/PBC/10/27).

ITEM 23 CLOSING OF THE SESSION

620. The session was closed.

[Annex follows]