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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
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## PROGRAM AND BUDGET COMMITTEE

Fourteenth Session  
Geneva, September 14 to 16, 2009

### REPORT

*Adopted by the Program and Budget Committee*

1. The fourteenth session of the WIPO Program and Budget Committee (PBC) was held at the headquarters of WIPO from September 14 to 16, 2009.
2. The Committee is composed of the following Member States: Algeria, Argentina, Bangladesh, Barbados, Belarus, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cuba, Czech Republic, Egypt, Estonia, France, Germany, Greece, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kenya, Kyrgyzstan, Mexico, Morocco, Netherlands, Nigeria, Oman, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Senegal, Singapore, South Africa, Spain, Switzerland (*ex officio*), Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of) and Zambia (53). The members of the Committee which were represented at this session were the following: Algeria, Argentina, Bangladesh, Barbados, Belarus, Brazil, Bulgaria, Canada, Chile, China, Colombia, Czech Republic, Egypt, Estonia, France, Germany, Greece, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Mexico, Morocco, Netherlands, Pakistan, Republic of Korea, Russian Federation, Senegal, Singapore, South Africa, Spain, Switzerland (*ex officio*), Tunisia, Turkey, Ukraine, United Kingdom, United States of America and Zambia (39). In addition, the following States, members of WIPO but not members of the Committee, were represented as observers: Albania, Angola, Australia, Cameroon, Costa Rica, Côte d'Ivoire, Dominican Republic, El Salvador, Ecuador, Guinea, Haiti, Indonesia, Israel, Jordan, Latvia, Lithuania, Malaysia, Monaco, Niger, Oman, Peru, Portugal, Rwanda, Serbia, Sri Lanka, Sudan, Sweden, Syrian Arab Republic and Yemen (29). The list of participants is annexed to the present document (Annex I).

ITEM 1 OF THE AGENDA

OPENING OF THE SESSION

3. The Chair recalled that the PBC had already had a considerable discussion of the proposed Program and Budget for the 2010/11 biennium during an informal session held for that purpose from July 20 to 21, 2009. He further recalled that an extensive exchange of opinions and information took place at the time and that the meeting's conclusions were reflected in the Chairman's Summary. The summary had been circulated at the beginning of August and to date no particular comments or reactions were received from any delegation. The Chair wished to remind the delegations that the PBC was now meeting for three days of further discussions with the purpose of adopting the various documents submitted to it. The Chair said that he would first give the floor to the Director General, following which the Committee should move to the adoption of the agenda. Following adoption of the agenda, the floor would be open to delegations and regional groups to make general statements, after which the meeting would continue with consideration of the various agenda items.

4. Director General made the following statement:

"Ladies and gentlemen, very good morning to you all, and thank you for this opportunity to say a few words just at the outset of this formal meeting of the Program and Budget Committee. As you all are aware, this meeting was preceded by the informal session of the PBC in July, and my colleagues have worked intensely throughout the summer months, to prepare the revised draft proposed Program and Budget, which is before you. I should like to express my thanks to them for all the hard work that they have put into this document.

"The first two pages of the revised proposed Program and Budget document summarize all of the changes that have been introduced. I would like to highlight certain points. First of all, let me start with the Medium-Term Strategic Plan (MTSP), which you will be well aware is not before you. I take responsibility for this myself. You will recall that our planned process envisaged that the MTSP should be the subject of an interactive process of consultation throughout the twelve months leading up to the Assemblies in 2010. We had hoped to produce it prior to this meeting, but I am afraid that, while it is well advanced, at this stage it is not yet ready for release. What we will release, which should be immediately following the Assemblies this year, would be a draft that will be the subject of an interactive process of discussions over a period of twelve months, which I think corresponds to the processes undertaken in other organizations.

"Let me turn to the draft proposed Program and Budget and say that, in the revised version that you have before you, the global envelope remains the same, namely a projected reduction in revenue of 1.6%. That is the estimate that we made much earlier in the year and we see no reason to change it based on our current assessment of the impact of the financial crisis. Now let me dwell upon the impact of the financial crisis for one moment because this informs very much the budgetary envelope for the next biennium.

"It is regrettably an unscientific process, the estimation of our revenue. We cannot simply estimate it on the basis of national patenting and trademark behavior, the PCT and Madrid being our principal sources of revenue. We cannot rely simply on national

behavior because what we have noticed throughout the course of this year is that international patenting trends (and the PCT is 75% of our revenue) differ from national patenting trends. Let me give you two examples, if the countries don't mind me mentioning: both Japan and the United Kingdom have experienced a decrease in domestic applications of over 10%. At the same time, both of those countries have experienced an increase in international patent applications under the PCT. In the case of the UK, some 6% increase, in the case of Japan, some 11% increase. What we are seeing is differing patterns of behavior internationally and nationally, which makes the process of projection and estimation a little bit more difficult, or at least not a scientific one. The second thing that I would say is that we have noticed that the impact of the financial crisis in patenting behavior is having different effects in different regions. We noticed again, in the case of the PCT, that applications from the United States of America under the PCT so far this year have been down by 14%. However, applications from China so far this year are up by 19%.

“Nevertheless, despite these uncertainties, which we believe are inevitable, we are very confident of being able to manage the financial impact of the crisis in this current biennium, and in the next biennium. We are confident that we will end this current biennium on a positive note. It is largely because, despite the fact that we are expecting a decrease in the number of applications in the PCT and Madrid, which may be in the order of about 5% or a bit less for the PCT, and in the order of about 10% or a bit less for Madrid, and as a consequence of the positive results achieved last year and the measures that we have taken, we are confident that we will end the biennium on a positive note and we see no reason to adjust our predictions at this stage for the coming biennium.

“Now if I can turn to some of the changes to the budget document that have been introduced following your extremely valuable input, comments and feedback, particularly in the informal sessions. The first of those concerns the Small and Medium-sized Enterprises (SMEs), where we have now a separate program for SMEs. We are aware of the importance that a number of delegations across the board placed on this particular program during the informal sessions and we had sought to respond to that. I would say two things in relation to the new SMEs Program. The first is that, of course, rather like development, SMEs are a horizontal matter across the Organization. We have a separate program now, which is to deal with the specificities that SMEs face in the utilization of intellectual property, particularly at the international level. Other parts of the organization will contribute, in cooperation with the SMEs division, to the program of the SMEs. For example, there are specialized training programs dealing with SMEs within the Patent Cooperation Treaty, and each of our Regional Bureaus also cooperates with the SME division. As far as the financial resources of the SMEs division are concerned, let me note that we are proposing a 10% increase in financial resources over the financial resources available to the SMEs division in the current biennium. In addition, I should note that some 735,000 Swiss francs are available to the SMEs Program and used by the SMEs Program under the generous funds-in-trust arrangements, particularly of the governments of Italy and the United States of America. In addition, one of the recommendations of the Development Agenda concerns specifically SMEs, and an amount of 600,000 Swiss francs is available for the implementation of that project.

“As far as our Regional Bureaus are concerned, we have tried to respond to your requests for an increased differentiation and specificity of the different regions in

Program 9 and you will see that now dealt with in the presentation of Program 9. For the Development Agenda, this is the first full biennium where we see the mainstreaming of the Development Agenda and the endeavor that we have made to ensure that the Development Agenda is mainstreamed, as well as the specific projects for the Development Agenda that have already been approved. Let me note that all recommendations have been fully funded and that any amounts that are unspent in the current biennium with respect to approved modalities for implementation of recommendations will be specifically earmarked and carried forward.

“Transfer of Technology and Innovation: you requested that these be moved from Program 1 dealing with Patents, to Program 18 dealing with Global Issues and this has been done. It is an old program on the one hand and a new program on the other hand. It is a program that we really would like to give a great deal of emphasis to and we think that there is much work to be done here, in both areas of innovation and transfer of technology. Let me mention that a new Director of the Global Challenges Division should soon be appointed. The selection process is under way and the selection board is meeting on that issue; I have not yet heard from them on their recommendation(s).

“The Academy: additional resources have been made available to the Academy and that has resulted in a diminution of resources in Program 6 dealing with the Madrid, the Hague and the Lisbon systems. We have also made available to you an organigram for the Organization as of December 1, 2009 when the new Senior Management Team takes up its duties. In addition, of course, we have also endeavored to meet your specific concerns with respect to narratives within the Program and Budget document where this had been the subject of agreement reached during the informals.

“There are a number of new items on the Agenda this time, which did not feature in the July informals and I will briefly mention those if I may, some less briefly than others. The first concerns a very important item of the selection of new External Auditors. Now we are well in advance in the planning of this process. The new External Auditor would take office in January 2012, i.e., after the next biennium, but we have sought to focus attention on this very important selection process that will now start to get underway. Let me emphasize that I think this is very much a technical process. Obviously, it’s in the hands of the Member States.

“Another item that will feature on the Agenda is the composition of the Audit Committee. The Chair has been leading consultations on this matter and it is not a matter that we, the Secretariat, are in a position to make any comments about, or to seek to influence in any way, because the Audit Committee is your body. Let me make a plea to you to please reach a decision on this matter, because we are already one year overdue on this matter. It is not necessarily easy, but there are best practices available, both within the UN system and more broadly, and I would hope that we can come to a decision on the composition of the Audit Committee at this meeting, or to a recommendation in that regard. If I may, while on the subject of the Audit Committee, mention the whole question of the oversight architecture in this Organization. As you know, in many respects we have, theoretically, the ideal oversight architecture consisting of an Internal Auditor, External Auditors and the Audit Committee. I have been, and each of those elements of the architecture has also been, concerned to ensure that that architecture does not just look good on paper but actually works well in practice. To this effect, I met with the Chair of the Audit Committee, Mr. Zevenbergen, who is here with us today, with the External Auditor and with our Internal Auditor,

some one week ago, to discuss how this oversight architecture is working in practice and how it can work better. That is a process that will be ongoing, henceforth leading, I hope, to some results that we can share with the Member States next year.

“A new item on the Agenda is the Progress Report on the Implementation of the Information Technology Modules to Establish Compliance with the new Financial Regulations and Rules and IPSAS, and the Progress Report on the Security Project. There are some revisions that we have proposed to the Financial Regulations and Rules. The question of the status of the Reserves is also an item up for discussion. Finally, there is the proposal for a new conference hall for this Organization, which was already the subject of a presentation in a question-and-answer session by the architect, some one week ago, of the proposal that would be before you in this meeting and before the Assemblies. Thank you very much Mr. Chairman.”

## ITEM 2 OF THE AGENDA

### ADOPTION OF THE AGENDA

5. The draft agenda contained in document WO/PBC/14/1 Prov. was adopted (see Annex II). The Chair opened the floor to delegations wishing to make general statements.
6. The Chair referred to Agenda Item 8 on the composition of the Audit Committee and reminded delegations that this matter should be resolved during this PBC session and therefore suggested that consultations be held with the Group Coordinators to take stock of delegations' views on this item.
7. The Delegation of Yemen (on behalf of the Asian Group) congratulated the Chair and the Secretariat for the preparation of the documents for the meeting on time, and stated its conviction that the work of the PBC, under the Chair's guidance, would result in the consensus being reached. The Group thanked the Chair and the Secretariat for informal consultations held prior to this meeting and noted that these consultations had given all Groups and Members States the opportunity to raise their concerns regarding the proposed Program and Budget. The Asian Group welcomed the proposed Program and Budget for 2010/11 biennium, noting however, that the concerns raised by some Asian countries on the amount allocated to SMEs had not been fully reflected in the revised document. The Asian Group wished to express its satisfaction with the work of the WIPO Audit Committee, noting that its workload increased recently with the assignment of additional tasks. Therefore the Asian Group called on the Secretariat to provide the Committee with sufficient secretarial staff support and added that it saw no rationale to change the composition of the Committee. The Delegation stated that the Asian Group would prefer to focus on the work of the Committee itself rather than on its composition.
8. The Delegation of Germany (on behalf of Group B) said that it wished to touch on certain points raised by the Delegation of Yemen. It congratulated the Director General and the Secretariat for the transparent and inclusive manner in which the draft proposed Program and Budget for the 2010/11 biennium had been prepared. The budget document which the PBC was being asked to approve was characterized by high quality and responsiveness. It said that not only did the proposed budget respond appropriately to the overall global economic environment in which WIPO operated, the revised version also had carefully considered the various needs and requests by Member States that had been expressed during

the initial drafting process earlier this year, as well as during the informal PBC session held in July. The Secretariat had prepared a balanced budget that was based on a prudent estimation of WIPO's revenue situation for the 2010/11 biennium. Out of the various scenarios available, the Secretariat had chosen the base case scenario, projecting a relatively humble 1.6% decrease of WIPO's income. A corresponding decrease in the overall budget envelope for the next biennium was the logical consequence of this decision. The Delegation expressed Group B's support for the approach that the Secretariat had applied and stressed that it considered a balanced budget a sound and sustainable way of running the Organization. Group B also wished to welcome the fact that the various requests from many Member States to more clearly reflect the importance of SMEs had been considered by the Secretariat and had been addressed in the revised draft of the proposed Program and Budget. Group B agreed with all other delegations that had been of the view that WIPO's regular program activity should be financed from the regular budget and not from the Reserves. It added that the use of WIPO's Reserves for such recurring activities would not be sustainable in terms of the Organization's longer-term financial health. In the Group's opinion the use of Reserves should be restricted to exceptional and longer-term financial necessities of the Organization, such as the modernization of IT equipment. The Delegation further stated that Group B was supportive of the functional and effective audit structure for the Organization. It therefore strongly endorsed the views expressed by other regional groups that the Audit Committee should continue its work. The Group was confident that a solution on the composition of the Audit Committee could be found and that its terms of reference could be agreed upon in the future. Group B strongly supported the Secretariat in its efforts to continue following a prudent, transparent and efficient budgetary approach. It said that such approach was important not only to Member States, but also to users, to increase their confidence in WIPO. Group B also wished to express its continued readiness to constructively engage in the debate of the PBC and looked forward to fruitful discussions in the three days ahead.

9. The Delegation of Senegal (on behalf of the African Group) extended its thanks to the Secretariat for the working documents, noting that the translation of the revised proposed Program and Budget for the biennium 2010/11 had been delayed. The African Group welcomed the Director General's continued commitment to the development dimension and the implementation of the Development Agenda recommendations, integrated within WIPO's results based management framework. The Delegation stressed that the implementation of the Development Agenda should be funded by the regular budget of the Organization. The African Group noted that the 2008/09 Program Performance Report should focus attention on the Development Agenda, as, within the context of the results-based management approach, the determination of baselines was of great importance in assessing progress made in the implementation of the Development Agenda. It further noted that continued efforts should be made to ensure that performance indicators reflected changes and objectives achieved rather than contain descriptions of the activities themselves. The Group recalled that at the informal session of the PBC in July, the heads of divisions and programs took the floor to inform the delegations on the various programs and budgets that had been proposed. The interactive dialogue that had taken place at that time made it possible to revise the proposed budget document reflecting the views expressed by the delegations. It believed that this approach should be put into practice and used, as a good practice, in order to increase transparency and build an atmosphere of trust between the Secretariat and the Member States. The Group added that the comparison made between the former version of the 2010/11 proposed budget and the current, revised version of the document had given some areas of satisfaction for the African Group, e.g., the creation of a new program for SMEs, which clearly highlighted its importance, and which had been requested by many members of the African Group. However, the African Group added that, with respect to new Program 30, some clarification

was needed as to the activities and performance indicators, as well as the objectives and the resources that were needed and had been allocated for the Program to function properly.

10. The Group also noted that the revised budget document was not entirely satisfactory in some other aspects, given the needs expressed at the informal session in July. The African Group was aware of the difficulty to reconcile the requirements for a balanced budget and satisfying all of the needs expressed by the Member States. It added that, amongst these needs some were indeed priority in nature and by implementing them Member States moved closer to the strategic objectives of the Organization. It further added that this was relevant to all the aspects that dealt with development, particularly the Development Agenda. That was the reason why the Group continued to believe that the funds allocated to Programs 8, 9 and 15, which were of most interest to developing countries and the LDCs, should be adjusted upward in the proposed budget. The Group also wished to see appropriate resources provided for Program 27, as well as for the intersessional Intergovernmental Working Group on Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources. It noted that while the resources of the latter were almost the same under the current (2008/09) and the proposed budget, the current budget was not considered adequate to take into account certain aspects which the Group considered absolutely necessary. Furthermore, given the specific needs of African countries and LDC's in respect of intellectual property and development, the Group reiterated its proposal to set up two separate programs; one for Africa and the other for LDC's. It also noted the specific needs of Portuguese-speaking African countries. The African Group expressed the hope that the representation of staff within the Secretariat would abide by geographical rules, by promoting vacant posts for Programs 5, 6, 15 and 18 to take into account this very topical and ongoing need for representation in geographical terms. The Group also reaffirmed its request as to the need to set-up a Reserves policy. On the subject of the proposal for the new Conference Hall, the African Group hoped that, given the economic crisis, the costs would be controlled and managed properly. As to the composition of the Audit Committee, the Group's concern, which was voiced on several occasions, was similar to that of the Asian Group. The Group considered that the discussions should focus further on what the Audit Committee could bring as an added value to the good, smooth running of the Organization; further views on this issue would be set out by the Group under the relevant agenda item.

11. The Delegation of Egypt thanked the Director General for his opening remarks and the Secretariat for the documents prepared. It fully endorsed and supported the statement given by the Delegation of Senegal on behalf of the African Group. On the issues of the composition of the Audit Committee, it wished to see the consultations on this matter open not only to Regional Coordinators but also to interested delegations.

12. The Delegation of Tunisia supported the statement of the African Group. It welcomed the implementation of the new mechanism, which further allowed Member States to intervene in the preparation of the new Program and Budget. It also welcomed the balanced Program and Budget before it. The Delegation thanked the Secretariat for making a distinction between the specific needs of each region under Program 9. However, it wished to see the human and financial resources of this Program not to be revised downwards and added that the same recommendation and comment applied to Programs 8 and 15, given that they were important to developing countries and were important in implementing the Development Agenda. The Delegation welcomed the proposal for a communication strategy for the Development Agenda, particularly by holding seminars and lectures on the possibilities offered by the Development Agenda. The Delegation supported the proposal for a new Conference Hall. It noted that today, more than ever, WIPO needed conference facilities able to accommodate an

increasing number of delegations. It noted, however, that this proposal should not have an adverse impact on the resources allocated to the Development Agenda. The Delegation was convinced that the Secretariat, being well aware of the development activities, would ensure that the resources would not be reduced in that regard.

13. The Delegation of Guinea thanked the Director General for his introductory statement and commended the Secretariat for the informal consultations held in July, which had enabled the preparation of the revised budget document. In concluding, it supported the statement made by Senegal on behalf of the African Group.

14. The Delegation of Angola supported the statement made by Senegal, particularly concerning the creation of two separate programs, one for African countries and the other for the LDC's, as well as the other program that referred to the Portuguese speaking African countries. The Delegation was pleased that following Member States' request a new Program 30 was established. It further requested that the specific needs of Portuguese speaking African countries, who accounted for the LDC's, be borne in mind as many of these countries experience problems with access to documents, which other delegations easily received in English and French. The Delegation recalled that the heads of state of the Portuguese speaking countries had stated their wish to strengthen the Portuguese language in the international organizations, including WIPO, and wished that this request be taken into consideration as part of the cooperation between WIPO and the Portuguese speaking countries. The Delegation affirmed its willingness to work constructively on the means to address this issue which was of great concern to the Delegation.

15. The Secretariat (the Legal Counsel), in response to the comments made by the Delegation of Egypt, informed the PBC that the meeting with the Group Coordinators scheduled for the following day was not related to this PBC or to any of the Agenda items on this Committee's program. The meeting concerned upcoming meetings of the Assemblies' of Member States, starting on the 22 September.

### ITEM 3 OF THE AGENDA

#### INTERIM FINANCIAL STATEMENTS FOR 2008 AND STATUS OF THE PAYMENT OF CONTRIBUTIONS, AS OF 30 JUNE 2009

16. Discussions were based on document WO/PBC/14/2.

17. The Secretariat (the Controller) recalled that the contents of the document had already been discussed during the informal session held in July. The document presented the Interim Financial Statements for 2008, in line with the Financial Regulations and Rules. The Financial Statements contained information on income and expenditure for 2008, providing Member States with information on the Organization's balance sheet, its cash flow and the evolution of the reserve funds, looking at the 10 year period, as well as the working capital funds (since 2008). They also provided comparison of actuals to budget, as well as other aspects related to financial issues. The Secretariat recalled that the Financial Statements included a summary for income and expenditure in 2008, which concluded with a surplus of 32 million Swiss francs. The Secretariat drew the delegations' attention to specific items on the balance sheet: 227.5 million Swiss francs for the Reserve Funds; 8.3 million Swiss francs for the working capital funds; the debtor accounts, as well as the Contributions in arrears.



The Secretariat highlighted that the overall amount of the Reserve Fund was 235.8 million Swiss francs, against a reserve target of 117 million Swiss francs.

18. The Secretariat directed the attention of delegations to Table 1 which illustrated the evolution of the Reserve Funds and the Working Capital Funds since 31 September 2007. It further highlighted the information in Table 3: The Total Expenditure and Income for 2008, which illustrates that the Income in 2008 accounted for 50 % of the Biennial Budget, while Expenditure accounted for just under 44 % of the Biennial Budget. The Secretariat indicated that the latter is quite common, as expenditures in the first year of the biennium usually remain below 50% of the total budget. The Secretariat further noted that there were Notes to the Financial Statements providing details on the distribution of fees and forecasts. The Secretariat invited delegations to look at the status of the payment of contributions. It explained that this Statement provides information as at June 30, 2009 and listed the Member States who were in arrears at that date. The Secretariat announced that since that date, a number of countries had paid the contributions due, and these were: Algeria, Belgium, Cote d'Ivoire, France, Greece, Grenada, Japan, the Democratic Republic of Laos, Mali, Paraguay, Poland, the Russian Federation, Spain, Turkey, Yemen and India. The Secretariat thanked those countries for the payments of contributions, and further drew attention to the last table in the document showing the evolution of arrears in contributions and Working Capital Funds over the last ten years. This table illustrated that arrears in contributions had dropped from 14.4 million Swiss francs in 1999 to 9.9 million Swiss francs in 2008.

19. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, to take note of the contents of document WO/PBC/14/2.

#### ITEM 4 OF THE AGENDA PROGRAM PERFORMANCE REPORT FOR 2008

20. Discussions were based on document WO/PBC/14/3.

21. The Secretariat (the Controller) introduced the document, recalling that it had been reviewed and discussed extensively at the informal consultations. The Secretariat further recalled that the aim of the Program Performance Report (PPR) at the end of a biennium was to provide an overall report on the performance of the various programs. The report submitted to the PBC was prepared in respect of the first year of the biennium, and was therefore an interim report only. The Secretariat explained that the report was drafted by the Directors of Programs themselves as a self-assessment report, as had been the case in the past. The report had been reviewed by the Internal Audit and Oversight Division (IAOD) in order to ensure independent quality assessment, and the comments and feedback provided by the IAOD were annexed to the report. The Secretariat recalled that the report used a broad system to assess whether the Program has made strong progress, progress or no progress – with symbols indicating these alongside the programs. Green for strong progress; amber for some progress that has been achieved; red where no progress had been achieved; and white if a program or part of a program had not been assessed.

22. The Delegation of Yemen (on behalf of the Asian Group) noted the importance attached by the Asian Group to the work of the Auditors, and indicated that it would make its intervention on the composition of the Audit Committee following the delivery of the report by the Internal Auditor.

23. The Delegation of Brazil thanked the Secretariat for the PPR for 2008. In respect of Program 9, it expressed its surprise to see reference to the Fourth International Congress of the Brazilian Association of Copyrights held in Sao Paulo, October of last year (page 41 of the document). The Brazilian authorities had indicated that they had no record of any request for support for that event, nor had they been informed about the possibility of WIPO supporting it. Reminding the Secretariat that WIPO was a Member State driven Organization, the Delegation requested clarification as to whether consultations with the Brazilian government had been undertaken in respect of this event, and if not, it wished to know the reason why.

24. The Delegation of Pakistan requested clarification in respect of the manner in which comments made by Member States on this document during the PBC's informal session had been reflected. Confirmation was requested as to whether those comments or observations had been incorporated in the document under discussion, and if they had not been, how these were envisaged to be reflected.

25. The Delegation of India, referring to the statement made by the Delegation of Pakistan, recalled that when the document had been discussed, it had made extensive comments and raised specific remarks in connection with certain Performance Indicators and Performance Data, recalling further that many other Delegations had had similar comments. The Delegation noted that no changes had been made to the document to reflect these comments, and requested the Secretariat to provide clarification on this point. It further noted that it would be important to ensure that the remarks and comments on this very useful and, in the Delegation's opinion, very valuable introduction to the management system of WIPO be reflected. The Delegation considered this important to note, as it did not see any reference to remarks made by other delegations or the Audit Committee in respect of the document. The Delegation requested that the comments made by Member States be reflected in some manner, for the official record. The Delegation said that since a similar report would be presented next year, these comments could perhaps be used in the preparation of the next report.

26. The Delegation of Spain thanked the Secretariat for efforts undertaken in the preparation of the PPR and other documents submitted to the PBC. It noted its regret that, similarly to previous occasions, Member States had not been provided with all of the documents in Spanish, and therefore could not study them in detail. It particularly noted the delay to the availability of the proposed Program and Budget for the 2010/11 biennium, which had only been placed on the website in Spanish the weekend prior to the PBC meeting, providing inadequate time for the Delegation to analyze the document in Spanish. With respect to the Interim Financial Statements and the PPR, the Delegation indicated its satisfaction with the fact that WIPO had managed resources by monitoring expenditures, so as not to exceed the limits in the 2008/09 budget. The Delegation considered that the PPR should contain more specific information on objective, real and easily identifiable Performance Indicators, in order to enable clear assessment of the extent to which the objectives were achieved. The Delegation urged the Secretariat and the IAOD to reflect this in the next assessment, and hoped that these recommendations would be reflected in the future PPR.

27. In response to the comments of the Delegations of Pakistan and India and Spain, the Secretariat recalled that it had proposed not to amend this interim PPR but rather ensure that the comments and feedback of Member States would be taken into account in the drafting of

the PPR for the year 2009 and the Biennial Report for 2008/09. A number of amendments had been made to the report prior to its submission to the PBC, in response to the comments of the IAOD made pursuant to the assessment exercise it had carried out. Accordingly, the Secretariat wanted to present this report in this form, and ensure that all the comments raised by delegations would be taken into account for the following report. In respect of the question regarding Program 9, the Secretariat requested the colleague responsible for the Program to respond at a later stage.

28. The Delegation of Egypt noted that recommendations annexed to the PPR were important and should be acted upon and hoped that these recommendations would be integrated in the next report. The Delegation further noted that of the 31 programs only 15 had been chosen to undergo a validation exercise. As expressed during the informal session, it felt that there had not been a clear basis for the selection of these 15 programs. It suggested that methodology or a rotation mechanism for this purpose could be instituted so that it would be known in advance which programs would undergo the validation process. Likewise, it wished to see that programs pertaining to development activities, specifically Programs 8, 9 and the others, would be part of the programs to be validated.

29. The Delegation of Pakistan said that it fully understood that due to logistical reasons the comments had not been incorporated in this report but hoped that the next report would take the comments made by the Member States into account. The Delegation enquired whether comments made by the Member States had been recorded in any document, so that the delegations could come back to it during the discussion of the next year's report in order to ascertain that those comments would have been taken into consideration and to see whether the quality of the report would have improved.

30. The Delegation of Egypt noted with satisfaction that Annex IX of the proposed Program and Budget included a list illustrating how the various Development Agenda recommendations would be implemented and how they related to the various programs of WIPO. It believed that this was a very good exercise of transparency and added that this model could in fact be used to include a new section in the PPR for 2009 to specifically audit or analyze the implementation of the Development Agenda recommendations. This would constitute a new exercise to be carried out under the PPR for 2009, and would look at Annex IX and illustrate/evaluate the performance of the various programs with regard to implementation of the Development Agenda.

31. The Secretariat (Head, Program Management and Performance Section) explained that the PPR was based on the performance framework that had been put in place with the approval of the Program and Budget for the 2008/09 biennium, as that had set the Expected Results and the indicators at the start of the period. The Secretariat added that if these indicators were not sufficiently robust or did not measure or capture what the Secretariat wanted to measure, then the quality of the report suffered as a result. The Secretariat indicated that the PPR could not be changed, since the indicators and the Expected Results were set as approved, and the PPR was reporting on past performance against these. The Secretariat added that what it could do was to learn lessons, and where the indicators were not thorough or where the performance data had not been captured the way it had been intended, the appropriate adjustments could be made for the next Program and Budget (for the 2010/11 biennium in this case). The Secretariat further indicated that the next PPR would cover the biennium 2008/09. The PPR in respect of the first year of the biennium, i.e. 2008, had been based on the Program and Budget document initially adopted by Member States in March 2008. In December 2008 the revised Program and Budget for the 2008/09 biennium was

adopted, which had different indicators and Expected Results. In order to produce the PPR for the 2008/09 biennium, both of those different sets of indicators would have to be used. The validation report was extremely useful, and had been intended for internal use to help identify some of the weaknesses and gaps. The recommendations were being reviewed to see how the Secretariat could implement these and further improve the next PPR's, particularly in the context of the Program and Budget for the 2010/11 biennium. An example of such an improvement was the introduction of baselines, which provide a better platform for assessing progress and measuring performance.

32. The Secretariat added that monitoring and evaluation systems needed to be put in place to enable data collection and reporting. By providing training and capacity building, the Secretariat needed to make Program Managers more aware of the appropriate use of this information - both in terms of managing performance, but also in terms of accountability and the ability to report and provide the right information to Member States addressing the questions raised, particularly in respect of the Development Agenda. The Secretariat indicated that work was under way to identify how existing reporting mechanisms could be adapted in order to enable reporting on the implementation of the Development Agenda, as well as to identify what additional mechanisms were necessary to provide the information that Member States wanted. In addition, the presentation of the thematic projects covering Recommendations 33, 38 and 41, which dealt with evaluation of implementation of the Development Agenda, was also under preparation.

33. The Secretariat (the Controller) responded to the comment made by the Delegation of Spain regarding translation, explaining that the Secretariat had needed time to prepare the documents, which had consequently been forwarded to the translation service rather late, with a request to translate them within a very short period of time. The Secretariat wished to take this opportunity to thank translation services for the excellent work and dedication demonstrated in completing this task as quickly as they had done.

34. The Delegation of Tunisia thanked the Secretariat for the preparation of the report. It wished to note that while the document stated on page 8 (French version) that WIPO information projects continued to be transferred into Google books and script, and made available free-of-charge in all the languages in which they existed, this was not the case in reality. It said that while some documents were indeed available free-of-charge, others were only limited extracts. Documents available free-of-charge dated back to about 1980s. The Delegation further highlighted that page 19 of the document mentioned that publications entitled Economics of Intellectual Property and Suggestions for Further Research were now available. The Delegation indicated that this should perhaps be one single document, rather than two separate documents. The Delegation also referred to an entry dealing with the recruitment of external staff in a four-month period, according to United Nations practice (page 118 of the French version of the document). The document indicated that recruitment was handled in a time period of approximately twenty-three weeks on average, which appeared quite a bit longer than the UN average. For this reason, the Delegation considered that this should be colored red in the table (traffic-light-system) rather than being left blank.

35. The Delegation of India enquired whether the PPR for the 2008/09 biennium, would have an additional chapter or an annex giving the performance progress report on the linkages with the Development Agenda (Annex IX). It also wished to know where the comments made by Member States would be recorded officially. The Delegation voiced its support to the proposal made by the Delegation of Egypt, as it also considered it useful and timely to have an additional annex to the PPR, indicating specifically the progress being made with

regard to the implementation of the Development Agenda in terms of its linkages with other programs, especially since there was the Development Agenda Coordination Division, which could be mandated to undertake this task. This would be all the more important because there was not yet a Development Agenda evaluation and monitoring mechanism in place. It further wished to comment on the Secretariat's clarification about the performance indicators not being revisable because they had already been identified, as understood by the Delegation. It said the performance indicators seemed to be rather specific, as they talked about 10% increase, 5% increase, or 10 educational materials. The question was when these had actually been identified – had it been at the PBC in the years preceding or was it in an intergovernmental body? The Delegation explained that it was asking these questions because many of its comments at the last meeting pertained to the performance indicators which formed the baseline for any evaluation. It noted that if these performance indicators were lax, any assessment or evaluation would be equally lax.

36. The Secretariat invited the delegations to refer to page 5 of the English language version of the document, which introduced how the PPR was put together, addressing India's last question first. The basis for the Expected Results and Performance Indicators was the Program and Budget document - as adopted by the Member States. The Expected Results and Performance Indicators listed in the first two columns for every program were a direct extract from the document A/44/2. Program Managers had been asked to collect information based on those indicators and Expected Results and, at the end of the period, report back on how they progressed against the indicators that had been set in the document. The response received had then been compiled, checked for the quality, and that self-evaluation was then included in this document. For the purposes of this report, it was thought to be useful to have an external and independent validation exercise to show whether there had been weaknesses and gaps, and to show whether the data collected had been relevant or not. Because this was the first time of doing a validation exercise it had been intended primarily to inform the Secretariat of where such weaknesses and gaps may be - in the data collection and monitoring, or in the indicators themselves. Regarding the point on Annex IX and the Development Agenda, the Secretariat said that it was producing a specific report dealing with that matter, and that dialogue would take place with Development Agenda Coordination Division to see how this information could be incorporated and reported back to Member States, particularly for 2009 (the second year of the 2008/09 biennium). The Secretariat recalled that in the Summary by the Chair of the informal session in July, the comments made by Member States had been carefully noted, primarily in respect of the indicators and Expected Results, where there seemed to be shortcomings. The Secretariat indicated that in order to respond to the comments from Tunisia, each of which was quite specific, the Secretariat would go back and discuss with the relevant Program Managers to get further information and would revert with responses to those points.

37. The Delegation of Brazil strongly supported what had been said by India and Egypt, highlighting the importance of assessing performance in respect of the implementation of Development Agenda recommendations.

38. The Delegation of Pakistan requested that the report mentioned by the Secretariat, with the comments made by Member States, should be made available to the Member States as well. Access to the report could also be provided via the website so that it was easily available to the Member States.

39. The Chair suggested conclusion of discussion of Agenda item 4, noting that the comments and requests made would be taken into account. He noted that a response to the question of the Delegation of Brazil on Program 9 was pending.

40. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, to approve the contents of document WO/PBC/14/3.

ITEM 5 OF THE AGENDA  
PROPOSED PROGRAM AND BUDGET FOR THE 2010/11 BIENNIUM.

41. Discussions were based on document WO/PBC/14/4.

42. In introducing document WO/PBC/14/4, the Secretariat (the Controller), recalled that, in accordance with the mechanism established by the Member States, the first draft of this document was submitted to the PBC at its informal session (July 20 to 22, 2009) for discussion, observation and recommendation, and also for any possible modification. The Secretariat indicated that the present draft had therefore been revised since then, taking into account the observations and recommendations made by Member States. In particular, following Member States desire for a balanced budget in light of the financial crisis, the Program and Budget document was, for the first time in WIPO, set to an amount lower than the amount set in the document submitted for the 2008/09 biennium. The following recommendations had also been taken into account: (i) Member States' wish to underline the importance of SMEs resulted in the creation of Program 30, the complete description of which was provided in the current document, including Performance Indicators, Expected Results and baseline levels. Program 30, with a specific budget a little over 4.5 million Swiss francs, was included after Program 9 (because previously SMEs had been included in Program 9) to facilitate comparison between the old and the new description. (ii) Following requests concerning the very specific needs of regions and the least developed countries, the description of Program 9 had been modified. It now contained a detailed breakdown per region, with complementing performance indicators and Expected Results. Financial resources for this program were now also provided by region. (iii) Activities related to the promotion of innovation and technology transfer had been moved from Program 1 to Program 18, to take into account the observations made by Member States. The budget for these activities had been moved as well. (iv) As a result of the very strong support expressed by Member states for the activities of the WIPO Academy, the resources available to the Academy had been increased and programs dealing with human resources and training had been reintroduced. The training of additional staff during the program had also been provided for. (v) Comments and feedback provided by Member States on program narratives had been taken into account as far as possible, with appropriate modifications been to the text. These modifications were highlighted to make it easier for Member States to identify them clearly. The Secretariat further highlighted that Annex I provided information on the 2010/11 budget by program, including the new Program 30 and other transfers made in response to Member States' requests e.g., transfer from Program 1 to 18, from Program 6 to 11, and from Program 9 to 30.

43. The Delegation of India wished to record its gratitude to the Secretariat for having taken on board many of the suggestions and comments and having made an attempt to reflect them as well as possible in the revised document. The Delegation suggested proceeding with the discussion of the document program-by-program.

44. The Delegation of Senegal remarked that it was aware that the Organization's resources were not infinite whereas the needs that it was expected to meet were very great, which made it inevitably difficult to decide what to do with the resources available and to take appropriate decisions which would make everybody happy. The Delegation was also aware that WIPO was operating, at the moment, in circumstances not conducive to massive expenditure. It added, however, that the Organization also had a mission, a job to do, and in doing its job there were some aspects which were of such importance that they had to be given a commensurate level of priority. The Delegation noted the changes and modifications which had been made to the document, but indicated that more work needed to be done in order to further improve it. The Delegation reiterated its proposal for the separation of programs between the African Group, the LDCs etc., if possible. Should not be possible, it wished to know the reasons for this.

45. The Delegation of Angola endorsed what had been said by Senegal. It noted that the Secretariat had taken into account many of the concerns previously expressed, but when it came to the African Group there were questions that it had asked which did not appear to have been taken into account. It recalled that the Group had requested the separation of programs in Program 9, which he thought had been recorded in the Summary of the Chair, but which had not been taken into account. In the revised program, there was nothing country-specific in the performance indicators, Expected Results and baselines, rather everything was grouped and general, which was likely to end up setting everything back to square one by next year. It also said that in creations of any new programs or sub-programs, the matter of specificity would have to be dealt with, as the Group did not wish to see the creation of these subprograms without taking into account the specificities of countries.

46. The Delegation of Brazil thanked the Secretariat for the revised document and for trying to take on board most of the concerns raised during the informal consultations. It supported the procedures proposed by India to conduct discussions program-by-program.

47. The Delegation of Spain indicated that it considered the proposed budget to be balanced, in line with the international economic situation, and addressing specific objectives conducive to a better efficiency of budgetary resources and the strategic objectives of the Organization. It supported prioritizing resources as proposed by WIPO, as the main administrator of the International Systems of Intellectual Property Registers, together with complying with the Development Agenda in all fields necessary, as well as continuing the rationalization of staff and the number of employees. It wished to know whether the use of 24 million Swiss francs from the Reserves to build the new Conference Hall was compatible with such prioritization, given the timeline foreseen to finish the work. It further questioned whether resources would be available in the beginning of 2011, i.e., mid-way through the biennium. The Delegation thanked the Secretariat for the efforts undertaken to incorporate in the revised draft of the Budget document most of the comments made by the countries that had replied to the questionnaire last March, as well as those made during in the informal consultations. The Delegation also thanked by the Secretariat for the creation of a new program for SME's, which addressed the concerns of Member States. It requested the Secretariat to clarify, however, why the resources proposed for Program 30 were exactly the same as the reduction proposed under Program 9. It further requested an explanation as to the reason for the proposed shift of resources from Program 6 to Program 11, which the Delegation did not consider to be in line with the required prioritization of resources. The Delegation regretted that other issues previously highlighted had not been addressed, for example the additional allocation of resources for linguistic services. It considered that this

was a fundamental need to ensure that WIPO complied with all of its commitments in the field of official languages towards Member States, which had already been pointed out at the informal session of the PBC in July. It maintained that a vital way of distributing knowledge among Member States was through developing an appropriate policy for the use of the various official languages. It drew attention to page 184 of the document (Spanish version), which stated that: “The Organization will aim to implement a more effective and comprehensive language policy, corresponding to requests made by Member States, covering meetings, publications and the WIPO website. This aspiration will be heavily resource-intensive and can only be met with economies elsewhere in the program. For the coming biennium, the languages of documentation for the Intergovernmental Committee on Intellectual Property and Traditional Knowledge, Folklore and Genetic Resources will be expanded to all the official languages of the UN, to be followed by documentation for other committees as financial and human resources permit.” In the Delegation’s view this objective was not sufficiently specific as it did not meet the needs of the Member States. Therefore, the Delegation requested the Secretariat to clarify in detail how it would carry out these objectives to improve the situation without increasing the financial and human resources allocated to the responsible program. It added that it was not in a position to accept the proposal as it stood and that it did not share the restrictive vision of the working languages, particularly Spanish, because this went against the principles of the United Nations system itself.

48. The Delegation of the United States of America supported the statement of Germany made on behalf of Group B. It welcomed the proposed Program and Budget and appreciated the effort that had gone into preparing the proposal. It believed that the base-case scenario chosen was prudent and provided a reasonable estimate of the income that the Organization was likely to realize in the coming biennium. It appreciated the Secretariat’s commitment to live within the proposed budget envelope, including the proposed reduction in headcount. It considered that this reduction was a reasonable first step in addressing the PriceWaterhouseCoopers recommendations from the desk-to-desk review. The Delegation welcomed the movement towards establishing a culture of customer service, which was long overdue at WIPO. It supported the establishment of Customer Service Centers for all areas of WIPO. It also supported the increased resource level for Communications, Economic Studies and Global Challenges.

49. The Delegation appreciated the creation of Program 30, focused exclusively on SME’s, which played a vital role in innovation, promotion, job creation and economic development. SME’s drove innovation around the world and the Delegation believed that WIPO’s Program in this area was critical to assisting SME’s and using IPR for economic growth, as well as promoting the use of WIPO’s services, which benefited WIPO overall. It realized though, that SME’s had not yet fully grasped and integrated the IP System in their business strategies. The challenge to empower SME’s within IP Capacity Building was therefore enormous and would require intensive efforts at both national and international levels over a number of years. While the Delegation fully concurred with the activities’ proposed in the Program and Budget document for Program 30, it wished to invite the Secretariat to consider the following activities and Expected Results in the existing framework for the SME Program: (i) Outreach and support programs and IP for SME’s, to foster discussion among IP and SME Institutions and build awareness on the role of IP Asset Management in the competitiveness of SME’s; (ii) the national plans on IP Asset Management by SME’s, to ensure that SME’s could use the IP systems to enhance their competitiveness. It believed it to be important that WIPO guided and supported countries in the creation of National Policies on IP Business Management. It added that such an approach was very much needed and only WIPO, given its privileged



position could offer this perspective, which could be implemented at the country level. Lastly, (iii) publications on the strategic use of IP assets by SME's in national studies on SME's, to enhance outreach and building awareness efforts. In particular, a series of national studies on the impact of the IP system and on the strategic use of the IP system, as certain important sectors were crucial for identifying the future challenges of Program 30. In view of the importance of the SME's and the significance of the challenges they faced, the Delegation was concerned about the lack of sufficient resources, in particular the non-personnel expenditures allocated to Program 30 to fulfill the previously mentioned activities. Therefore, it proposed increasing the non-personnel budget of Program 30, from 1 million Swiss francs to a total of 2 million Swiss francs or 1 million Swiss francs per year. It said that these additional funds should come from the unallocated portion of the budget and could be replenished through efficiency gains during the coming biennium.

50. The Chair announced that the Program and Budget document and the programs would be reviewed one by one, as proposed by India. He recalled that during the informal session in July, Program Managers had reported individually to the PBC. In order not to repeat this exercise, he asked delegations to indicate which programs they wished to review. The observations would then be taken and questions raised would be responded to by the Secretariat and Program Managers.

51. The Delegation of Italy appreciated the creation of the new Program 30 and the clarity with which the Secretariat had delivered the challenges found in SME's, which played a vital role in innovation promotion, job creation and economic development. It said that the challenge to make the IP system accessible to SME's required sustained efforts at both national and international level. Therefore, the Delegation looked to WIPO to provide the guidance and coherent policy to make the IP system an effective tool for enhancing the competitiveness of SME's worldwide. While it fully agreed with the activities proposed for Program 30, it invited the Secretariat to consider including the following programs and activities. (i) Global Entrepreneurship Program – the Delegation considered that it would be of great interest for the international community to organize training programs for SME's Managers on IP and Innovation Management. The primary objective of this training would be a better perception and a better use of IP systems by SME's, including a better utilization of the Global IP Registration System. Therefore, regional fora on best-practices concerning outreach and support programs on IP for SME's would stimulate a discussion among IP and SME's Institutions. (ii) The national plans on IP asset management by SME's that supported countries in the creation of national policy on IP business management. (iii) The creative industries - it would be appropriate to deal with SME's, Creative Industries and innovation in one program. Therefore, the part of Program 3 dealing with Creative Industries should be transferred to Program 30, along with earmarked human and financial resources. The Delegation shared the position of the United States of America on the budget increase of SME's division, Program 30.

52. The Delegation of Switzerland made a general statement on the whole of the proposed Program and Budget, rather than to answer the question which programs it wished to review in detail. The Delegation thanked the Secretariat for the quality of the working documents prepared. Even though the working documents had not been submitted in all of the languages, the Delegation pointed out that, when compared with the past practices, a lot of progress had been made. With regard to the French versions, the Delegation noted that the documents had been available much faster, in particular for the preparation of the Assemblies, and that was also the case for other languages. The Delegation thanked the Secretariat for its efforts in that particular linguistic field. It also appreciated the inclusive consultation process

in the preparation for this Program and Budget and the availability of the Secretariat to answer all the questions and requests for clarifications.

53. The Delegation of Switzerland fully associated itself with the statement made by Group B, regarding the budget document and wished to make several comments. With regard to the revised proposed Program and Budget, it appreciated the balanced budget proposal. With regard to the resources allocated and the activities proposed in the various sectors of activity of WIPO, it said it was acceptable to the Delegation as a whole. It said that the proposed Program and Budget allowed WIPO to maintain the momentum of the positive strategic changes that had begun in the current biennium's revised budget, and enabled strengthening the capacity of WIPO in taking a leadership role in IP areas among the Intergovernmental Organizations. In the Delegation's view, the key was that redefining of the strategic goals approved in December 2008 and the definition of the Programs enabled efficiency gains by centralizing activities around skills hubs, which would need to be appropriately defined. Member States had thus got rid of a number of overlaps and duplications that existed in the Organization and increased its effectiveness. This was beneficial for an organization such as WIPO, whose revenue depended on the economic changes and fluctuations in the world, especially in the time of economic crisis. The Delegation believed that this trend should be encouraged for the future and that it would enable the Secretariat to further extend the range of its activities and services, to be able to meet the needs of the Member States; be it specifically in the registration systems or the standard setting activities or development activities of the Organization. The Delegation stressed that it did not want to see the multiplication of programs to become a trend. It had challenged this trend in the past in the context of this Committee as it tried to reduce the number of programs.

54. The Delegation of Switzerland also wished to avail itself of this opportunity, to stress the importance of the proper functioning of the registration services: the skills of the staff involved, the support provided by the administrative personnel, and the technical investment that needed to be made, especially in the areas of IT. These activities had been the source of success of this Organization and had enabled WIPO to finance the many activities that the Organization performs, especially in the area of development. It underlined that the two sectors, the Registration Unions and the development activities were very much interlinked. The Registration Unions and in particular, the PCT system, played a key role in WIPO. The Delegation recalled that over 90% of the total income was generated by these Registration Unions, with the overall majority coming from the PCT. The Delegation underlined that it was crucial for WIPO that the PCT system be strengthened and that it remained one of the most effective systems, so that international patent applications went through the PCT. It said that it was of great importance to improve the databases e.g., the Nice Classification and the IT structure of the Organization to guarantee the quality and the effectiveness of the services provided. It noted with satisfaction the progress that had been made in that field and the projects that had been launched, which it fully supported.

55. The Delegation of Switzerland also raised an issue linked to the buildings. It believed that the maintenance and the renovation of the buildings of the international organizations fell under the realm of those very organizations, to the extent that they owned those buildings. As host country, the Swiss Delegation wished to advocate introduction of a good practice rule, whereby international organizations annually provided for 1 % of the fair value of the building, so that they could set up a fund dedicated to their maintenance. On this occasion, the Delegation noted that the Program and Budget set aside an allocation for the maintenance of the buildings. However it wished to see the future budgets of WIPO apply the rule of the

1 % and include the appropriate means (e.g., a provision in the budget) to enable financing of renovation and maintenance expenditures.

56. The Delegation of India said that it attached great importance to the budget exercise and viewed it as an opportunity for Member States to shape the work program and the budget allocation and in that sense, this discussion was a continuation for the dialogue commenced in July. It said that it would have comments on nine specific programs. Since there were nine Strategic Goals and 29 programs, it suggested proceeding goal-wise. The Delegation said that it wished to comment on the MTSP process and on Programs 5, 9, 11, 14, 16, 17, 18, 20 and 30.

57. The Delegation of Australia said that it supported the direction of the Program and Budget for 2010/11, including the drive for more effective delivery of services, the Development Agenda and capacity building, the more efficient use of resources and the integration of the Development Agenda into WIPO work program. The Delegation also supported the increased commitment to use appropriate and attainable Performance Indicators and Targets. It noted the effect of the global financial crisis on WIPO and supported a conservative approach to expenditure, while WIPO's financial basis experienced uncertainty. It also noted that the Director General had tried to balance the demands arising from treaty obligations and service requirements with demands to implement the Development Agenda, and ongoing operational and infrastructural requirements.

58. The Delegation of South Africa supported the proposal to proceed with the discussion on the basis of strategic goals, and wished to make comments on Programs 4 and 8.

59. The Delegation of France thanked the Secretariat for introducing the changes that accommodated the comments made during the informal session of the PBC in July. It fully supported Group B's statement on the proper balance and reasonable nature of the budget. It wished to revert to the Director General's proposals of that morning and the figures relating to patent filings at international and national levels. The Delegation stressed the fact that international applications contributing to the present and future income of WIPO had gone down and that Member States should be fairly cautious with the 2010/11 budget. It congratulated the Secretariat on this cautious approach and on maintaining a broad spread of activities in the Organization. It asked to be regularly informed about the implementation of the budget.

60. The Delegation of Oman thanked the Secretariat for having prepared the documents that took into account the proposals and comments made at the July PBC meeting. It supported the proposal to review programs on the basis of strategic goals, wishing to comment on Program 27.

61. The Delegation of Algeria thanked the Secretariat for having prepared the proposed Program and Budget document and was pleased to see that changes were introduced following Member States suggestions made at the July meeting. It supported the statement of the African Group. With regard to the Development Agenda, it requested that text be added to clarify that the list of programs under the "Development Agenda Links" section of the program narratives had been given as an example. It noted that this list did not specify how the programs would implement these recommendations, and suggested that the next 2009 Program Performance Report covered that aspect. It also thought that it would be necessary to earmark sufficient funds for future activities of the IGC and the Development Agenda. On Program 30, the Delegation wanted to be clearer about the objectives and performance

indicators of this Program. In addition to assistance to SMEs, the Program should also integrate the use of the flexibilities provided by the intellectual property system to increase the competitiveness of enterprises. It added that Program 30 should refer to the conditions necessary for intellectual property to be used as a vector for innovation. It said that, in Program 18 techniques/technologies based on traditional knowledge should be stressed and that there should be extra-budgetary support to facilitate the participation of developing countries in WIPO's work.

62. The Controller invited Program Managers responsible for Programs 4, 5, 8, 9, 11, 14, 16, 17, 18, 20, 27 and 30 to be present in the room to respond to Member States.

#### Program 4

63. The Delegation of South Africa said that in accordance with the general statement delivered by the Group Coordinator, the Group's request during the informal session had been for an increase in the budget allocated to Program 4, in view of the current state of negotiations within the IGC. The Delegation indicated that, despite envisaged possible intersessional work as well as the IGC sessions, there was no increase in the money for conferences, and queried whether any provision had been made for this, should the decision be made during the General Assemblies for the work to move in this direction.

64. The Secretariat (Acting Director, Traditional Knowledge Division) responded that the amount foreseen for IGC sessions was provided for within a number of budget lines referred to in the draft budget for Program 4, namely "Third Party Travel", "Conferences" and to some extent "Other". The cost of each IGC session was approximately 240,000 or 220,000 Swiss francs. The Secretariat added that the practice until now had been to organize four sessions for every two years and the draft budget for the 2010-2011 biennium therefore foresaw four sessions for 2010 and 2011. Apart from funds specifically set aside for this number of IGC sessions, additional funds could be available under "Third Party Travel", "Conferences" and "Other" for any intersessional processes that Member States might decide to set up. In further response to the question from the Delegation of South Africa, the Secretariat clarified that the reduction in the amount allocated to "Third Party Travel" was due to cost-cutting measures that the Director General had put in place, and, accordingly, the reduction did not mean that activities would be curtailed, but only that their costs would be lower.

#### Program 5

65. The Delegation of India requested clarifications on three points with respect to Program 5. The first pertained to the budgetary allocation showing on page 51 of the English language version. Under the heading "non personnel resources" there was an amount of 44.1 million Swiss francs, under the category "Other", for the period 2010/11. It said that this was a large amount compared to the 2.4 million Swiss francs foreseen to be allocated for the Development Agenda and requested clarification in respect of the expenditures envisaged under this heading. The second comment pertained to the data provided on page 51 of the English language version under the heading "Personnel Resources" where there was a slight increase of from 1.25 million to 1.28 million Swiss francs allocated for personnel resources for the PCT system. The Delegation understood that the PCT system exercised an amount of flexibility with regard to its staffing profile and that it had been given the flexibility to hire additional personnel in response to increase in PCT filings. It wondered whether in view of the decreased number of the PCT filings, and given that the Secretariat stressed the diminishing of revenues of WIPO and the consequent need to exercise economy, a

corresponding decrease in the number of PCT staff posts was contemplated. The third point raised by the Delegation was with reference to a suggestion previously made by it in the last informal session of the PBC. At that time, the Delegation had requested a cost/benefit analysis or a preliminary study to be undertaken on the outsourcing of the PCT operations to a less costly location. It felt that the existing text did not interpret what had been discussed at the last meeting. It requested that language and the sub-point 4 in paragraph 1 be amended to “investigating through a preliminary study” and that the phrase “through a preliminary study” could be added, if possible, where reference is made to particular functions and tasks, including search and examination processes.

66. The Secretariat (Director, PCT Operations Division) explained that the most significant portion of the 44 million Swiss francs under the category “Other” was proposed to be allocated for the cost of outsourced translation work, which was estimated to cost approximately 16 to 17 million Swiss francs per year for 2010/11. The Secretariat acknowledged that given the large amount involved and its importance, it would merit being mentioned explicitly in future documents. The Secretariat proceeded to explain that the amount of about 11 million Swiss francs was the usual amount foreseen for running operations and other miscellaneous expenses like archiving, boxes, mailing costs that would normally be incurred during a biennium. The secretariat confirmed that this was a large amount, but added that it was also a large operation. The small amount left did not cover PCT operations but related to work in the other PCT units, like Legal and International Cooperation. In response to the second question, a number of elements had to be taken into account. The Secretariat explained that the total workforce in PCT operations consisted of two large categories: people on staff positions, and people on non-staff positions, of which around 80 were short-term staff. The Secretariat assured the Member States that the Secretariat did its best on a constant basis to improve the efficiency of the process. When one considered economically, from a real *de facto* perspective the staff evolution, the Secretariat wished to draw the delegates’ attention to page 205 of the English text - The Performance Indicators for PCT Operations, and the graph describing the number of personnel within PCT operations. That number was the combined total of people on staff positions and on short-term contracts. As could clearly be seen, there had been a very significant decrease of personnel certainly since 2003, which had occurred when there still had been a very significant growth in the PCT, between 20 to 30% more work between 2003 and the present, and nonetheless the staff had been reduced by 100 persons. The Secretariat said that the graph was a true indicator of the evolution of overall staff in the PCT. The increase touched upon by many Delegations had to do with only one category, i.e., staff positions. The Secretariat reminded the Delegations that last year the WIPO Assembly had agreed to the creation of about 30 regularization posts and of those 30 posts, 15 were allocated to the PCT, simply on a *pro-rata* basis of where the short-term personnel had been. The Secretariat explained that these posts had now been filled and obviously this led to a certain increase in the staff costs. It assured the delegations that there was no difficulty adjusting the language as had been suggested.

#### Program 9

67. The Chair invited Deputy Director General, Narendra Sabharwal to answer questions related to Programs 9 and 30.

68. The Delegation of India pointed out that in the list of items under Challenges and Strategies (Program 9), it was evident that regional bureau essentially did coordinating tasks, because according to the bullet point 2, “support, awareness raising, through a variety of

outreach activities”, the Communications Division should be tasked with doing this. Similarly, bullet point 3, “work with Program 15 to support the development and modernization of IP institutions”, the work would be done by the PCT system or the PCT office. Each of these items listed seemed to come under the direct ambit of one of the specialized divisions in WIPO, which had their own mandate and more importantly their own budgetary allocation. It said that budgetary outlay for the Africa, Arab States and the Pacific regional bureau under Program 9 amounted to 41.9 million Swiss francs. The Delegation requested clarification as to where exactly this large amount was spent and what the intersection was with the budgetary allocation given to the specialized division e.g., what came under the Communication Division. The Delegation said it would be grateful if the regional bureaus could provide a breakdown of its expenditure, e.g., for the last biennium, to give Member States an idea of where the sizeable amount actually went. The Delegation suggested including an additional bullet point, which would read: “Support the development and implementation of country owned national innovation and IP strategies”. It said that although it appeared in the tabular part, it did not appear in the descriptive part, on page 66.

69. The Delegation of South Africa noted that with the regional presentation of the activities under the different bureaus, it was clear that while there were similarities in the activities, there were also differences. It requested the Secretariat to introduce consistency in terms of the activities, workshops that were provided to all developing countries across the regions. It further noted that under the Asia Pacific bureau there was mention of the preparation of draft laws, comments to draft laws being prepared, and assistance with national IP legislation development. Similar activities were, however, not mentioned under the Africa bureau. Under the latter something had been mentioned in relation to TK and TCE’s, however the Delegation felt that activities should be extended beyond those issues to overall IP legislation, as well as IP policies. Concerning the work of SMEs that related to Program 9, the Delegation, similarly to the Indian Delegation, wished to see minimum duplication of work and increase of coordination with the main Program 30 on SMEs.

70. The Secretariat (Deputy Director General, Narendra Sabharwal), in response to the questions from India, pointed out that Program 9, which dealt with all the regions comprising the developing world and the LDCs, has been primarily mandated and tasked with building and enhancing national capacities for utilizing intellectual property for development, in all developing countries and the least developed countries. This Program was the main program addressing and supporting capacity building needs at the national and regional levels, in so far as building infrastructure, sustainable institutions, developing human resources of various target groups, reaching out to the user sector and enhancing their capabilities and skills to utilize intellectual property, building partnerships and networking between the IP administrations and IP user community, was concerned. This Program also coordinated with the external partners outside of WIPO, bringing their expertise and experience and sometimes their resources, to complement the capacity building program of WIPO. The Secretariat said that all this was done in a holistic, comprehensive and coordinated way, where the program and the regional bureaus coordinated continually with other programs in WIPO, as well as with external and other partners. The goal was to provide a comprehensive, integrated and holistic package of capacity building technical assistance services at the disposal of the Member States.

71. The Secretariat added that Program 9 was the main program with dedicated resources for carrying out all IP related legal and administrative infrastructure, institution building and human resource development work. The delivery tools included a number of seminars, meetings, training courses, symposia, policy level dialogues, policy level fora, assistance in

needs assessment, development of intellectual property and innovation policies and strategies, conducting studies and guides, and developing specialized tools for various target groups in cooperation with the other programs mentioned by India. Those programs had their own mandate, and they continually cooperated with and assisted Program 9 and the regional bureaus. The regional bureaus were the focal point for coordinating all technical assistance to Member States. The main resources of WIPO for development cooperation programs and technical assistance were provided in Program 9. The Secretariat thought that the point of supporting countries in developing and implementing country-owned IP and innovation strategies was very important. The Secretariat drew the delegations' attention to page 66 of the document, where one of the main plans or strategies for cooperation for development was to incorporate and align all capacity building activities within the framework of the country-owned intellectual property and innovation strategies, wherever such strategies existed. That also included, on demand and on request, support given to countries for formulating and implementing such strategies. The Secretariat said that as such this is a Member State driven and country-owned program. WIPO was at their disposal to provide the necessary expertise and support as per their specific needs. The Program's objectives were common to all regions and LDCs, but each region also had its own particular requirements and specificities; it was possible that in some countries, some challenges were more prominent than in others.

72. In relation to the questions of the Delegation of South Africa, the Secretariat explained that the common challenges faced by the developing countries and the LDCs had been reflected in the narrative of the program, which described the Program Objectives, Challenges and Strategies. The Secretariat stated that the common formulations for all countries and LDCs, were not always included in each of the Regional Program's narratives for the reason that there was no necessity to repeat what was stated in the general description for Program 9. Descriptions for regions were intended to provide information on the specificities and the differentiated approach relevant to each region but this did not mean that some of the things mentioned in the general Program narrative, did not apply. In order to have a full picture, one should therefore refer to the general Program narrative with the objectives, challenges, strategies and the general approach of the program, as well as to the specific and differentiated approach for each region. With regard to South Africa's comment on avoiding duplication of work, the Secretariat assured that this point was well taken, and indicated that it was definitely the intent and the effort of the Secretariat to carry out programs, activities and events in a way that there were no duplication, redundancy and overlap. The Secretariat further said that in order to ensure the above, all capacity-building activities were sought to be included within the overall framework of a country-owned strategy and plan thus avoiding possibility of duplication or overlap insofar as the capacity building in that country or region was concerned. This was done in close consultation and in a very need-specific and demand-driven way with the concerned country.

73. The Delegation of India requested that the clarifications on the breakdown of the expenditure of the Regional Bureaus be circulated to enable the delegates to better understand where these resources were used. The Delegation, in reference to the bullet point on "...specific assistance to SMEs in developing countries", wished to be informed whether there was a SME-directed assistance to a particular country in the region and whether the resources came from the SME Division or from the Regional Bureau. With regard to the point mentioned earlier on support to the development and implementation of country-owned national innovation and IP strategies, it said that while the legislative assistance in updating national IP legislation had been mentioned clearly, the potential contribution of WIPO to the evolution of national IP innovation policies or IP strategies would warrant more explicit reference. It requested that this point be reflected in the revised text.

74. The Delegation of Angola asked whether it was possible to reflect under this Program any specific activities destined or reserved for the Portuguese-speaking countries of Africa.

75. The Secretariat said that the requested breakdown of expenditures, for Regional Bureaus, SMEs and other programs would be provided before the next meeting of the PBC. On the question of resources, the Secretariat said that it had already been clarified that Program 9 cooperated with other programs as described in the budget document. In relation to Program 30, the nature of the request would determine where the resources would come from. For instance, if the request was to carry out the translation of a specialized or a specific publication for which SME Division was in charge, the relevant resources would come from that division. The Secretariat added that this did not mean that the Regional Bureaus would not contribute to that process as WIPO followed a very flexible process whereby the main aim of the Program and the Program Management was to provide full satisfaction as to the requests received from Member States. The Secretariat added that it depended on whether specific requests from Member States on capacity building could be met by the regional bureaus alone or in coordination with another program or by using external resources or external assistance. As far as the question on the IP strategies was concerned, the Secretariat was of the view that placing the relevant reference upfront as it currently is, gave it the necessary importance and prominence. However, the Secretariat was ready to add an additional bullet point to reflect the importance of formulating and implementing national IP and innovation strategies. With regard to the question from Angola the Secretariat said that the relevant information on programs and activities in the Portuguese-speaking countries could be provided for the Delegation's information. The Secretariat also clarified in response to a question from Angola that activities to benefit Portuguese-speaking countries located in different regions were incorporated in the descriptions of the relevant regions, such as Africa, Latin America and the Caribbean Countries.

76. The Delegation of Brazil expressed its support for the comments of the Delegation of Angola in relation to the Portuguese-speaking countries.

#### Program 30

77. The Delegation of India said that most of the points it had wished to raise on Program 30 had already been raised by the Delegations of Algeria and the United States and seconded by Italy. It wished to make two broad comments. First, the Delegation thanked the Secretariat for making the SME a stand-alone program with a separate budget. At the same time, the Delegation noticed that the Program had been transferred from the Program 9, which had been a specific request made by several delegations, including this one. The Delegation requested that the budget currently given to Program 30 be revised upwards to ensure that the work done by this Division would be meaningful and contribute in the sense that the Member States intended. The Delegation also requested that a reference be added in the narrative, saying that the assistance to the SME's sector would focus on helping them to strategize on IP, as it was also suggested by the Delegation of the United States. The Delegation further explained that strategizing IP meant how to use the flexibilities in the IP system and, perhaps a second aspect, focusing on the kinds of challenges that SMEs faced particularly in the innovation environment, e.g. the increasing cost and threat of litigation, the effect of patent tickets on SMEs, the lack of in-house legal council and other very practical constraints on the use of IP by SMEs.



78. The Delegation of South Africa, while expressing satisfaction with the creation of new Program 30, pointed out there was not a connection to the work of the creative industries as highlighted in Program 3 and wished to see that there was some connection in terms of the work that was done by the two programs in view of the linkages to the matter in both. It also requested for an increase in the budget allocated to SMEs.

79. The Delegation of Brazil joined other delegations calling for an increase in the budget allocated to Program 30 and thanked the Secretariat for having put it in a separate format. It also expressed its support for the new text proposed by India.

80. The Secretariat recalled that the Director General had pointed out that there had been a 10% increase upfront in the budgetary resources for SME's (Program 30). In addition, there would be up to 600,000 Swiss francs available to it from the Development Agenda Project and up to some 735,000 Swiss francs available from trust funds. These amounts do not take into account resources provided by the WIPO Regional Bureaus for shared activities. In total, the resources available to the SME Division were much more than the amount shown against program 30 in Annex to document WO/PBC/14/4. In reference to suggestions for improvements in texts on "strategizing for SME's" and "the specific challenges they are faced with", the Secretariat assured that the appropriate changes would be made. The Secretariat took note of the suggestion from the Delegation of Brazil regarding the link between the programs on SMEs and the Creative Industries.

81. The Delegation of India, in reference to the Secretariat's previous statement regarding the interconnections between the WIPO Regional Bureaus and the specialized divisions of WIPO, requested whether the information on the overall budget resources available to a given sector could be shown on a combined basis, regardless of their sources. As an example, when delegations looked at the SME's sector, they were interested in knowing the budgetary allocation for this sector, regardless whether the resources were under Bureaus, trust funds and elsewhere. The Delegation was of the opinion that a trust fund remained a donation made by certain countries, which could be called "project aid" or "project fund". Therefore, the Delegation requested that funding be made available for SME's support in the regular budget of WIPO.

82. The Delegation of the United States of America wished to come back to the comments that the Secretariat had made with respect to the budgetary issues for SME's. It took the point regarding the fact that part of financial resources for SME Division might become available through trust funds or the Development Agenda. It thought that part of its intervention though did focus on three particular activities of the SME Division which were pretty unique. In reference to the resources for the Development Agenda and trust funds, the Delegation was of the opinion that these types of funds were with respect to particular designated programs, whereas some of the challenges that the Delegation had identified were more long-term and dealt with more outreach, more policy development and therefore required more financial resources. With respect to that, the Delegation requested that the Secretariat consider carefully and give the appropriate focus to the share of the non-personnel resources in the overall budget of this program.

83. The Secretariat noted the suggestions and observations made by the Delegations from India and the United States of America.

Program 8

84. The Delegation of South Africa, in reference to Program 8 and the Development Agenda recommendations, requested clarifications on whether the current budget had made any provisions for future recommendations and activities that would be adopted by the CDIP in the next biennium. It said that as it could not see that in the document, it felt that there needed to be a reflection made in this budget of a certain amount earmarked for future activities that would be adopted in the 2010/2011 biennium. It also strongly felt that additional comment could be made in Table 1 relating to additional funds being set aside for future Development Agenda activities that had yet to be adopted to ensure that there were resources set aside, as had already been indicated by the Director General.

85. The Delegation of Brazil associated itself with the comment made by the Delegation of South Africa.

86. The Delegation of Egypt said that, like the Delegation of South Africa, it wished to know the amount and the source of resources that needed to be made available should the CDIP approve (in its future sessions) various activities for implementation of the Development Agenda. Furthermore, regarding the narrative for Strategic Goal 3, the Delegation noted that there were two paragraphs. While approving of the first paragraph which referred to how countries could benefit from the use of IP for development, the Delegation was of the opinion that the text did not approach or tackle the opposite side of the coin, whereby the development policy should empower IP and IP should empower the development. It proposed the insertion of the following language, after the end of the first sentence: "...Likewise, development concerns and priorities should be integrated into IP Policy at the national and international levels...", and then the rest of the paragraph would continue. The Delegation recalled that background information was requested during the informal consultations on the planned International Conference on Integrating Development into IP Policy-Making. The Delegation said that it did not understand what the background to organizing this Conference was and reiterated its request for more formation. It also expected that Member States would be part of the consultations on this conference. On the Expected Results for Program 8, the Delegation of Egypt wished to see reference to normative work in the very first Expected Result which was related to mainstreaming further the DA principles into the Organization's programs and activities. In reference to the second Expected Result and related text, the Delegation expressed its reservation regarding the formulation of the Performance indicator and Target. Specifically, the Delegation was of the opinion that the existing formulation would have been appropriate once the activities were implemented. However, the Delegation believed that this was not an accurate reflection of the situation because the Development Agenda recommendations were a process of continual activity. It wished to change that language to: "...are being successfully implemented". Regarding the fifth Expected Result, the Delegation requested clarification of the meaning of "*Ad hoc* communication strategy..." indicated in the Baselines for that Expected Result.

87. On the Program Links, the Delegation of Egypt felt that, as presented, they were not to present a vision of how the Development Agenda was going to be implemented or how it would link with other Programs, because this was for the CDIP to decide upon. However, importantly, it saw in particular missing linkages to Programs 5, 6, 12, 14 and 20. It said that Program 5 on the PCT did include important development issues and the Development Agenda Coordination should have a link with the PCT Program. Likewise, Programs 6, 12, 14 and 20 also had important development elements and, therefore, the Delegation saw an important need for Program 8 to be linked to them. The Delegation also wished to see a link

to Program 27, as the issuance of documents in different languages, specifically in the official languages of the Organization, performed a very important development function as this enabled Member States to be aware of what was going on in terms of the Organization's work.

88. The Delegation of India wished to join other delegations who had expressed concern about the lack of clear budget allocation for new projects that would be approved in the coming sessions of the CDIP. The Delegation requested that a budgetary allocation also be made for the CDIP Coordination Mechanism that was being discussed, as it wished to avoid a situation where the CDIP discussions were stalled because of the lack of budgetary resources.

89. The Delegation of Germany, in view of the comments made by the Delegation of India, and what had been agreed in the CDIP, wished to know how the Budget Section saw the notion of setting aside money in advance. It recognized the merits in such thinking but was not certain whether that was the due process that had been agreed upon. The Delegation recalled that, as rightly pointed out by the Delegation of India, since the PBC and the General Assembly had a say on the CDIP implementation measures from the budgetary point of view, it would be interesting to have the view of the Secretariat in that respect.

90. The Secretariat (Acting Director, Development Agenda Coordination Division) responded to questions one-by-one. Regarding the question on the future availability of financial resources for the implementation of Development Agenda activities and projects, the Secretariat recalled that five projects had been proposed to the CDIP III, of which the Committee had discussed and approved three projects. It added that the proposed Program and Budget contained the resources foreseen for the implementation of those projects, as revised by the Committee at its third session. This had obviously been done following the established procedure on allocating budget in the Organization. As to whether setting budget aside in advance would comply with due process, the Secretariat repeated that this budget had been put aside following the established procedure as CDIP approved more projects and activities. For example, the forthcoming session of the CDIP would be presented with three more projects, the November session the following year would have yet another project put forward and the budget made available in the Revised Program and Budget for 2010/11 would enable the start of the implementation of projects approved from now onward in January 2011. The Secretariat added that it was entirely in the Member States' hands should they wish to change or take a different approach as compared to the established process.

91. With regard to the comments made by Delegation of Egypt, the Secretariat agreed that development policy should be informed by IP policy and that it would consult with the Delegation of Egypt and would make the necessary changes in the text. Regarding the comments made about the conference, the Secretariat recalled that the suggestion for holding a conference was initially made by the Delegation of Brazil. The details as to what would be the scope and the subject matter had not yet been defined. The conference should be held in 2011 and the work would start 2010 onwards on defining its scope and other details. Regarding the Expected Results mentioned by the Delegation of Egypt, the Secretariat said it had no problem including the normative framework in the Expected Result number 1. The Secretariat pointed out, however, that the normative framework rested more in the hands of the Member States rather than the Secretariat and that the achievement of these Expected Results would not be solely in the hands of the Secretariat. In the Secretariat's opinion, it might not serve the purpose but if the Delegation of Egypt felt that it would be more appropriate, the new language would be included. Regarding the second Expected Result, it would be re-phrased to say "are being successfully implemented". Regarding

Communications strategy for the Development Agenda, the Secretariat (Irfan Baloch) recalled that it had been in charge of Development Agenda Division since February 2009. It added that the communication strategy with the Member States was more a question of having bases. The Secretariat reminded delegations that there had not been such a Division in the past. It said that there were various seminars and workshops where policy-makers and officials at the national level had been informed of the Development Agenda. The Secretariat added that there had not been anything clearly articulated on a piece of paper as to what the objective of that policy was, what goals were to be achieved, who the partners were, and what the mode of communicating with them was. The Secretariat stressed the need to have all these points in a written form and said it was collaborating with the Communication Division to come up with a strategy which was effective both in terms of communicating with the stakeholders and also in terms of cost.

92. With regard to the program links for Program 8, the Secretariat said that they would be amended as identified by the Delegation of Egypt. On the point raised by the Delegation of India regarding a budgetary allocation for Coordination Mechanism, the Secretariat responded that its position was the same, i.e. it was entirely up to the Membership of the PBC to determine under what procedures funds should be set aside at that point and whether a new procedure had to be adopted. Regardless of the procedure itself, however, the amount to be set aside would need to be established. However, at this point the costs of a possible Coordination Mechanism were not known. In the Secretariat's view, it would accordingly be sufficient to decide on a budgetary provision for the Coordination Mechanism within the Revised Program and Budget for 2010/11.

93. The Delegation of Pakistan took note that the amount of 2.24 million Swiss francs, included in the unallocated line of the proposed 2010/11 budget, would be allocated for the projects which had been discussed and broadly agreed during the last CDIP. It raised concern in respect of the funding for those projects, which would be discussed and hopefully agreed at the CDIP IV this November. The Revised Budget for 2010/11 would only be submitted to the PBC in 2010, meaning there would be a delay of about six to seven months. The implementation of approved projects would remain pending during that time, because there would be no budgetary allocation for their implementation. The Delegation of Pakistan further understood that regarding the projects which were going to be approved in the meeting of April 2010, there would be even less time for the allocation of resources, due to the timing of the submission and discussion of a proposed Revised Budget for 2010/11. The Delegation of Pakistan accordingly wished to raise the concern of what would happen to those projects. Would implementation of these projects be kept pending, or should funds already be reserved now for their implementation? The Delegation of Pakistan understood the concerns regarding the determination of the amount to be set aside in this manner, however, it suggested that an amount could be determined on the basis of the cost estimates which had been prepared by the Secretariat. The Delegation confirmed its understanding that once the projects were approved by the CDIP at its November session, then the amount set aside could be fine-tuned and allocated from the unallocated funds in the revised Program and Budget.

94. The Delegation of India expressed its hope that the upcoming CDIP would approve both new projects as well as the establishment of coordination and monitoring mechanism. The Delegation was aware that both of these would require funding, and wished to avoid a situation where implementation of the CDIP decisions could not go ahead due to the lack of budgetary allocations. Accordingly, it wished to see a budgetary allocation for this purpose. The Delegation also noted its concern in respect of the fact that the budgetary process for the Development Agenda was not the same as for other work done in the Organization. The

Delegation noted that the importance attached by the Director General to the Development Agenda should have a concomitant reflection in terms of money allocated to it. The Delegation suggested adopting uniform budgetary rules, principles and processes for the Organization which would include the Development Agenda. It referred to the allocation of 44 million Swiss francs under "Other" (Contractual Services) for Program 5, and questioned why it would not be possible to keep some amount of money for the Development Agenda implementation, a suggestion which had been very often reiterated at the highest levels of that Organization. Accordingly, the Delegation proposed earmarking of a certain amount of money for the implementation of the Development Agenda, which would also cover the Monitoring Mechanism if it was approved. In the event that not enough projects were approved, the money would remain unutilized.

95. The Delegation of Egypt supported the views expressed by the Delegations of Pakistan and India. It stood in favor of establishing an allocation, or of finding a way through some creative allocation from the Reserves that would be used for implementing the Development Agenda. The balance would be reimbursed from the forthcoming budget or from the forthcoming revision of the 2010/11 Budget. The Delegation wished to ensure that there would be adequate funding and, as was reiterated, that delegations did not find themselves in a situation where they were constrained due to the lack of a budget allocation.

96. The Delegation of South Africa wished to recall discussions in December 2008, the Director General's commitment to the Development Agenda in terms of activities and funding thereof and wished to see a budgetary allocation earmarked for future activities under the Development Agenda. The Delegation supported the proposal made by Egypt to look into the possibility of earmarking funds from the Reserves. The Delegation reiterated that the Development Agenda was not a unique situation; it was simply something new and Member States were learning how to best approach the implementation of the recommendations as they went along.

97. The Delegation of Switzerland noted that there was full agreement on the importance of implementing and having the necessary resources for the activities under the Development Agenda and its recommendations. However, the CDIP was also set up with clear rules. It would make its recommendations to the Assembly which would, in turn, take the final decision in view of the resources available. This was the way other committees worked as well. Regarding the recommendations which would be put forward for adoption at the next CDIP meeting, the Delegation considered that Member States should follow procedure used for other committees as well as the generally applied rules of the Organization.

98. The Delegation of Brazil wished to echo opinions voiced by Pakistan, India, Egypt and South Africa, confirming that it should indeed be the Assemblies that decide what resources should be allocated to the Development Agenda implementation. Due to the differing frequency and timing of meetings of the Assemblies, the CDIP and the PBC, it was important to establish procedures that would address this problem for the future. The Delegation called for being creative in trying to find a solution and therefore supported what was said by Egypt, to try and reach middle ground solution.

99. The Secretariat acknowledged the points raised by delegations and noted that timing remained an issue, since the implementation of activities decided by the November CDIP would be delayed until the Program and Budget approval. On the other hand, the Secretariat noted that a procedure was established. When it came to the CDIP, it was decided that whatever decisions [on the activities] the CDIP took, and the Secretariat came up with the

financial estimate for the implementation of those activities, the package would then be submitted to the PBC, from there to the Assemblies, and this was how the implementation would start. The Secretariat also wished to remind delegations there that the five recommendations with a price tag of 8 million Swiss francs followed the same procedure.

100. The Chair recapitulated that the implementation of Development Agenda projects discussed at the April CDIP required approximately 2.2 million Swiss francs, the amount which was included in the proposed Program and Budget for 2010/11. Regarding the November CDIP meeting, and in view of the concerns already expressed by delegates, a further amount had also been set aside under unallocated funds for the projects to be submitted to that CDIP session. If requests from Member States were for higher amounts than what had been estimated, appropriate steps would be taken to address the issue. Turning to the usual procedure for formalizing requests from Member States, the Chairman confirmed the Secretariat had noted the comments made, particularly the comment that the all of the amounts requested by Member States should go through the PBC.

101. The Delegation of India, in order to clear confusion that it felt might have arisen, said that it was not asking for a special treatment for the Development Agenda. On the contrary, the Delegation had asked that the Development Agenda be treated on the par with other WIPO activities, with the same budgetary rules applied. The Delegation thanked for the budgetary provision made, however, it wished to know how to ensure that money was allotted for new projects and new items approved by various committees. The Delegation gave the example of work done in the ACP, where new studies were being approved in every meeting. The Delegation stressed that it did not hear that this had to be approved again by the General Assembly.

102. The Delegation of Pakistan requested clarification concerning unallocated 5.6 million Swiss francs and the 2.2 million that had been set aside for the projects that had been agreed on during the last CDIP meeting. The Delegation asked to be corrected, if it were wrong in its understanding, that it was on both projects which the Member States were going to agree upon and that both projects were going to be implemented out of the remaining allocated amount.

103. The Delegation of Egypt recalled that during previous discussions in CDIP Member States had been constantly reminded that particular projects/mechanisms could not be agreed on because they had not been allocated for in the budget. The Delegation wished to know how to ensure that there would be allotments for projects that the Member States would agree to in the future sessions of the CDIP, whether those projects pertained to the implementation of those recommendations or to a coordination mechanism for the Development Agenda. The Delegations said that this presented an obstacle and was a legitimate concern of all the delegations raising this point. The Delegation felt that it was finally the time to resolve this issue.

104. The Delegation of Germany admitted to sharing the feeling of confusion about the present discussion as expressed by the Delegation of Switzerland. It emphasized that it saw the good intention in the interventions of a number of delegations, including India, Egypt, South Africa and Brazil. The Delegation said that having listened carefully to the explanations provided by the Secretariat, it had to admit that it did not see that the Development Agenda recommendations or its implementation would be given a special treatment at all. The Delegation highlighted that the PBC was the Committee that decided on the allocation of monies, as recalled by the Delegation of India. The Delegation remembered

that the preceding year, when a Conference on Global issues in the context of SEP was discussed, there was a need of a special allocation of money from the PBC and the General Assembly respectively. The Delegation added that it did not see what the delegations were deciding upon i.e., if money was to be set aside. The Delegation remarked that from its point of view, it represented a deviation from the specific role of the PBC. The Delegation said that, when discussing that issue in the CDIP, it had not wanted to develop the process by which discussion in the PBC were turned into a mere rubber -stamping exercise. The Delegation added that it did not see how the Committee could give the Development Agenda that special treatment.

105. The Delegation of Germany then referred to the interventions by the Delegation of India and Egypt on the notion of the coordination mechanism which gave impression that coordination mechanism had already been discussed in the CDIP and that argument for possible funding of such a mechanism had already been made. To the German Delegation's recollection, there had never been a discussion on funding. It added that it had been Group B which had specifically made it clear in its proposal submitted to the CDIP and the Secretariat on such coordination mechanism, that should such mechanism be established, it should remain resource neutral. Therefore, an endeavor to make specific funds for that purpose would actually contradict what had been presented to the CDIP. The Delegation acknowledged the Delegation's of Egypt effort to come forward with flexible and creative ideas on funding, but added that advance funding of these activities from the reserve did not sound, at least at first glance, very reasonable. The Delegation thought there was some consensus within the Committee that these activities should be funded from the regular budget and this would, at a future stage, entail a strategy on the utilization of Reserves. It added that it was hesitant to enter into this kind of new funding grounds, as it did consider it a feasible solution at this stage.

106. The Delegation of Egypt said that the Development Agenda projects were being implemented on a rolling basis, which meant that it would be impossible for the PBC to allocate the exact budgets that the implementation would require over the next two years. Thus, it thought that there were two options. One option was to agree on the projects and wait for the next budget cycle in order to discuss the financial aspects and then proceed with the implementation. It added that no Member State wished to see this process, because it would simply delay the implementation of the Development Agenda. The alternative would be to use flexibility and creativity to ensure that the projects that would be agreed upon by the Member States would have the funds for their implementation on a rolling basis. The Delegation stressed that the Development Agenda was special, not because it was more important than the regular activities of the Organization, but because of its specific funding requirements and the implementation rationale/methodology. The Delegation agreed with the comments made by the Delegation of Germany on the use of the Reserves for this purpose and added that a policy on the use of Reserves was needed. On the other hand, it said that the Reserves were there to enable the Member States to perform functions of flexibly. As such, the Delegation proposed that a certain amount of the Reserves be set aside, as a fund that the Organization could draw from to implement activities. The fund would be covered or brought back to balance in the following (next) budget. That would mean that the PBC would not change the current budget, but that a reference would be inserted for the implementation of forthcoming Development Agenda projects recourse. As Member States approved projects, funds would be temporarily drawn from the Reserves, which would automatically be replenished in the next budget and that amount would be taken from the sum allocated to the implementation of the Development Agenda. The Delegation explained that if 3 million Swiss francs were taken from the Reserves, in the next budget there would be a draw of 3

million Swiss francs from the budget of development activities to the Reserves. Such mechanism would not negate the principle that the Development Agenda would be funded directly from the regular budget. It was treating the reserve fund as a bank from which a loan was taken.

107. The Delegation of India emphasized that the good intentions referred to by the Delegation of Germany needed money and budget to translate into action. It pointed out that the PBC was about to sign a blank check for 42 million Swiss francs under the Regional Bureaus, with no clear indication which program and activity would receive the funds. The Delegation added that, as heard from the Secretariat, there was a great deal of flexibility in how these funds were sourced. Therefore, it addressed the Chairman to reiterate that budgetary outlays be kept with flexibility in mind. The Delegation said that the PBC knew much more about the Development Agenda projects than it knew about the other allocations, e.g., in the PCT or the ICT system. The Delegation did not understand what kind of blank checks the PBC was hesitant to sign-off on and felt it had to come back to the point of special treatment and, once again, clarified that it was not asking for special treatment for the Development Agenda. It emphasized that it was asking for the assignment of a budgetary outlay similar to the one done for all other activities of WIPO. The Delegation added that since the PBC had to find solution to the predicament it found itself in, it thought that there were only two solutions available. One solution would be to put in an explicit language saying that adequate amounts would be drawn down from the reserve funds after Member States approved the projects. The Delegation wished to point out that 24 million Swiss francs were being drawn down from the Reserves for the construction of the Conference Hall, so there was a precedent. It added that the figure in question would not be a double-digit one, so it did not see what the blockage could be. The other solution would be to revise the budget document, which was still not approved, so it would be approved directly by the Assemblies. The Delegation explained that the precise reason for the PBC meeting was to discuss such issues and make the changes as necessary. The Delegation thought that it was a golden opportunity to set things right and move along together to what was a common objective - the implementation of the Development Agenda recommendations.

108. The Delegation of South Africa supported other delegations that had taken the floor on this matter and wished to see, as India had mentioned; a large amount under "Other" for Program 8, which would provide flexibility for future activities. The Delegation was trying to be creative to ensure that there was some money earmarked for the future Development Agenda activities. That was why it wanted to consider the proposal implicating the Reserves, as mentioned by the Delegation of Egypt. It assured that, this was not to say that Member States would spend every cent earmarked or that they would try to enclose more activities to utilize more money to cover the earmarked amount. The Delegation wished to be reassured that once the work of the CDIP commenced in November, Member States would not have to face challenges and discussions on budget restrictions, when the time was limited in the Committee to discuss the actual activities under the recommendation itself. The Delegation recalled that the PBC had done it in the last Program and Budget, in terms of an asterisk that had money earmarked for the Development Agenda activities that were still to be implemented.

109. The Delegation of Switzerland thought that all of the delegations agreed on the overall aim and the result that they wanted to obtain i.e., to implement the adopted recommendations as fast as possible. It said that the existing procedures did not force Member States to wait for two year cycles before taking a decision on the budget and that there was the option of the revised Budget, which was used almost every year as Member States realized that they needed



to allocate more funds than initially budgeted. The Delegation remarked that Member States could have a revised budget and thought that this tool should be used rather than setting aside or blocking money for activities, when the PBC did not know how many of these activities would be continued or the funds they would use. The Delegation recalled that the Secretariat had already set aside some funds for the activities which would be launched. It added that should those funds be not sufficient; there would be a possibility of revising the budget in the 2010 Assemblies. The Delegation said that if the existing rules/practice was followed, things would be fairly straightforward. The Delegation found it hard to hear that some Member States were looking at (questioning) the funds for the Information Technology System or the activities of the Patent system, knowing that meetings would be held and documents would need to be prepared for them. The Delegation added that those items were budgeted in a traditional fashion and had been so for a number of years. The Delegation was in favor of proceeding according to the existing rules, which were flexible enough to allow an arrangement meeting Member States' needs.

110. The Delegation of France supported statements made by the Delegations of Switzerland and Germany calling for respect of the existing rules and maintaining "budgetary creativity" within the framework of what had been decided upon by the PBC and the General Assembly. The Delegation said that Member States could only work with the money available to it. The question of the use of the Reserves would be discussed later during the session and Member States would look into what the Reserves could be used for. The Delegation said that, at a first view; it would appear that Reserves could be used for exceptional expenditures of WIPO. It added that the Development Agenda was going to be sustainable and therefore; should be financed from the regular budget.

111. The Delegation of the United States of America supported the statements made by the Delegations of France, Germany and Switzerland. It added that it would, however, in some ways agree with what India noted in terms of the unique nature of the Development Agenda and the process that had been developed with respect to Project Managers, going through with all the projects, and coming up with projects with respect to all 45 recommendations, which included human and financial resources. The Delegation wondered, however, whether earmarking was necessary. The Delegation underlined that during all of the meetings, Member States had been able to go through a number of recommendations with specific numbers. Thus, it felt that, the need for earmarking was not really necessary, because Member States would have numbers to work with before the Program and Budget. Hence, if the concerns were with respect to the longevity of Development Agenda funding; the Delegation would note that it had spent a great percentage of the proposed budget on the Development Agenda without even looking at the issue of the reserve funding. Therefore, the Development Agenda continued to be financed and would continue to be financed. The Delegation noted that a more detailed discussion on the use of the Reserves take place under that agenda item, but added that from its point of view, the Reserves should be used for one time expenditures not recurring costs.

112. The Delegation of Brazil, with regard to the option of revising the budget, noted that to revise something, it had to have been allocated in the first place. Therefore, it agreed with the proposal put forward by Egypt i.e., that some resources had to be allocated based on the draft of the project. Member States could subsequently review (revise) any such allocation. Otherwise Member States would have to wait for the next budget cycle. The Delegation added that Development Agenda was unique and therefore, should be dealt with creativity, within the rules of the Organization.

113. The Delegation of India concurred with the Delegation of Brazil in that one had to have an allocation in the first place if it was to be reviewed in the revised budget and added that the revised budget would come many months after the CDIP meeting. It said that the purpose of the present discussion was to resolve that very issue i.e., how to ensure that Member States would not have to wait several months to see projects approved or implemented. The Delegation thought that earmarking was very important and necessary. It recalled that during many meetings it had attended one of the common remarks had been that “there was no budget allocation for that, so there was no point discussing that”. Therefore, the Delegation called on the PBC to allocate or earmark certain amount for the activities that all of the Member States deemed important.

114. The Secretariat (the Controller) proposed to explain to the Member States what the Secretariat’s procedures were. This would ascertain that the procedures employed would take into account all of the observations that Member States had made that afternoon. The Secretariat understood the concerns expressed by the Delegations and, in order to leave no ground or room for concerns to continue to exist, said that it would come back to the PBC the following day with a more extensive response.

115. The Chair adjourned the meeting for that day.

116. The Delegation of Ecuador, on behalf of GRULAC thanked the Chair for the way in which he was steering the discussions and for his efforts to try to ensure that these discussions were successful. GRULAC thanked the Secretariat for having prepared all of the documents and the Director General for his effort and constructive cooperation. GRULAC welcomed the statement of the Director General on the fact that the Program and Budget for the next biennium would not be affected by the international financial crisis and also welcomed the proposal for the new Conference Hall. The Delegation stated that full implementation of the 45 recommendations under the Development Agenda was vital for GRULAC and insisted that this should take place within the regular budget of the Organization. Recalling the need to guarantee resources for implementation of the Development Agenda, the Delegation trusted that consensus agreements beneficial to all countries would be reached. Finally, GRULAC stressed that comments from the various Member States needed to be taken into account within the Program and Budget. In particular, GRULAC hoped that the documents from the different committees were translated into Spanish so that the Spanish-speaking Members had enough time to study and consider them.

117. The Chairman proposed to commence discussions on Program 16.

#### Program 16

118. The Delegation of India noted the reference, under Program 16, to the study on the economic impact of the Creative Industries and said that such a study seemed to have been undertaken the year before as well. The Delegation highlighted the need for similar studies and analyses in other sectors. The Delegation welcomed the reference to the study and analysis of the economic impact of IP Systems and requested that this study be undertaken because WIPO had not so far come out with a comprehensive analysis or study of the economic impact of IP, especially for developing countries.

119. The Secretariat (Chief Economist, Carsten Fink) thanked Delegations for their comments and questions. It noted that Program 16 was certainly not limited to assessing the economic impact of the Creative Industries and that it would certainly extend to other

industries as well as other forms of IP rights. The reason why the Creative Industries were mentioned specifically was because there was already ongoing work in this area and the idea was to continue with that but certainly not to limit the economic study work to the Creative Industries. The Secretariat also noted and confirmed that the comprehensive study of the economic impact of IP was part of the planned work program and in line with the priorities set for the Program.

120. The Delegation of Pakistan welcomed the Chief Economist to the Organization, greatly looking forward to his work. The Delegation noted that, in its view, Member States had to determine prioritization for these studies and analyses and requested further clarification in respect of how this was envisaged to be done. It further wished to know what methodology would be used in the analyses, as in its view this was important in ensuring quality and balance in such analyses. The Delegation also noted that the analyses needed to focus on the level of IP protection according to the level of development of a country, i.e. what level of IP protection one country should have according to its own level of development.

121. The Delegation of Egypt welcomed the Chief Economist to the Organization. Regarding the issue raised by the Delegation of India, the Delegation of believed that the Creative Industries were an important element, but the main spirit that the Delegation greeted in the creation of new Program and the appointment of Mr. Fink was the more traditional issues of the economic impact of IP, most notably the patenting aspects. The Delegation suggested that the program narrative should mention that it would undertake a critical assessment of the development impact of Patent Systems, as this was assumed at the heart of the economic impact of the IP System and its impact on development. While other areas - copyright, creative industries, protection of genetic resources, traditional knowledge, etc. - were also important, for the vast majority of IP Systems it was actually the Patent System that was the most critical. The Delegation insisted that a reference be made in the narrative of the Program to the role and impact of Patent Systems on development and that studies would be undertaken for its assessment.

122. The Delegation of India inquired whether there would be any interfaces or overlaps between the mandate of the IP and Global Challenges Division and of the Economic Studies, Statistics and Analysis Division, because it understood that the former was also looking into policy implications, analysis and research on the interconnection between IP and Global Policy issues such as climate change or environment or food security. Similarly to the point raised by the Delegation of Pakistan, the Delegation of India also wished to know what forum for consultations with Member States was envisaged to define the areas of the study.

123. The Secretariat responded to the questions, fully acknowledging the importance of consultations with Member States on priorities. It urged Member States to take ownership of the studies that would be produced. It also noted that methodologies would certainly be developed for the implementation of the studies, but that it would also be important to work with local research institutes in the countries concerned, in order to build research capacity in the longer term and to ensure that developing countries in the future were much better placed at conducting economic research work on their own. The Secretariat indicated that Member States should feel free to convey their priorities. One of the platforms for consultations on priorities could be events that would be open not only to the Member States but also to the public, in order to discuss some of the priorities that would be the substance of the economic research work. In respect of the methodologies, the Secretariat explained that it wished to work as empirically as possible. The conclusions of any study should be based on reliable facts and data. Another important aspect highlighted regarding the implementation of studies

was that peer reviews would be undertaken, whereby international experts from around the world would critically evaluate the methodologies and the way they were implemented. The Secretariat took note of the comment from the Delegation of Pakistan, regarding the importance of identifying the level of IP protection appropriate for countries at different levels of development, and further noted that this was something that had been generally emphasized by economists and would certainly be taken into account in implementing the studies. The Secretariat also acknowledged that it would be appropriate to explicitly mention the envisaged work on the impact of Patent Systems on development in the narrative section of the Program.

124. The Chairman opened discussion on Program 11.

#### Program 11

125. The Delegation of India welcomed the reinstatement of the Executive Education Program. It requested a clarification regarding the paragraph which specifically mentioned that the Executive Education Program would be remodeled from a development perspective and would target business executives in developing countries, LDCs and other countries where IP education was not available. The paragraph also mentioned making the program more affordable, while maintaining the quality as indicated in the pilot project, including engagement of well-experienced and qualified resource persons. While it welcomed the reinstatement of the program, it wanted to know whether the budgetary allocation was commensurate with the program's goals.

126. The Delegation of South Africa joined the previous speaker in welcoming the reinstatement of the IP Executive Education Program. It supported what the Delegation of India had said, requesting more clarity on the remodeling of the Program in view of the fact that South Africa had one planned before the program was suspended, and now wished to know how it would be continued. The Delegation further noted that there was no reference to the program in the Expected Results and Performance Indicators and wished to know where that would fall. It also requested confirmation of the funding.

127. The Delegation of Spain requested confirmation as to whether there had been a transfer between Program 6 and Program 11 dealing with the WIPO Academy. Although it supported the increase in the budget for the Academy in principle, it wanted to know why the increase was at the expense of Program 6. It also wondered whether the reduction in resources for Program 6 was the reason for having to use funds from the Reserves to improve the computer systems. There was another part of the Reserves which was supposed to be used for the computer systems of the Hague System and that decision was due to be taken at the Assemblies within the next few days. The Delegation did not understand the consistency between these measures because there seemed to be a risk that they might be contradictory.

128. The Secretariat (Executive Director, Global IP Infrastructure Department) expressed its appreciation for all the questions and comments. It explained that various models of the Executive Education Program would be considered, depending on the degree of support from the countries concerned. For example, very good partners had been identified in India. The Secretariat was very optimistic about the remodeling of the Program in such a country where there was support from the local industry. The Secretariat further explained that, generally, three alternative solutions were considered. One option was where the resource person could come from the developed countries and business management schools of high repute. This option was not as frequently used as before, as trainers and training material for the Executive

Training Program were already developed during the initial periods of the program. A network of good resource persons had also been established in different countries, where the colloquium and symposium on business and executive education were held two years ago. Another option was where the preparation of the Executive Training Program was supported by local partners, reducing the non personnel costs of WIPO. In addition, the fees charged for attendance of the program would also be reviewed and adjusted to reflect the purchasing power parity in the country where they would have to organize the training. All these elements would contribute to ensuring that WIPO could provide the training program at an affordable cost in developing countries. Accordingly, the budgetary allocation in non personnel costs would not need to be large, in addition to which the fees collected would serve to fund the non personnel costs. The cost implication was primarily on personnel costs, which was reflected in the transfer of resources from Program 6 to Program 11.

129. The Secretariat (the Controller) explained that all the budgetary questions would be answered at the end of the program discussions. Concerning the question which was raised on the transfer from Program 6 to Program 11, the Secretariat recalled that in reviewing options for providing Program 11 with additional funds, Program 6 had been approached as well and had been able to identify appropriate funds for the purposes of transferring these to Program 11.

130. The Delegation of India wished to place on record their concern about any diminution of the quality of the Executive Education Program under Program 11. The affordability of the Program was never a concern for the Delegation, which had been one of those that had made the request for its reinstatement. It recalled that even with the existing fee structure the Program was overbooked in India. It highlighted that the trainees in India were seeking high quality, focused training on how enterprises could strategize on IP. It further recalled that there were very few business schools offering programs on IP and the idea was to get trainers from these reputed business schools. The Delegation of India further stressed that if the aim was to reduce costs by having local resources and trainers delivering the Program, this would not serve the purpose behind the Program. If, however, the aim was to reduce administrative overhead cost by partnering with local organizations, this was acceptable. The Delegation of stressed that the pursuit of affordability should not be at the cost of the quality of the Program.

131. The Delegation of Indonesia thanked the Secretariat for its explanation and congratulated WIPO for reintroducing the Executive Education Program. It further recalled its proposal made during the CDIP to strengthen IP at the lower academic levels so that improvements could be made to the knowledge and understanding thereof.

132. The Secretariat said that the tertiary, secondary and primary levels would benefit from the IP course that was taught at the higher education level. Other educational authorities could be asked to follow, this was what was called the cascading down approach, much easier than the bottom-up approach where IP was first taught at the primary school level and then moved up to the secondary and tertiary level which, according to the Secretariat, was very difficult to implement. The Secretariat was of the opinion that once experience had been gained and trainers trained on IP at university level, or at the tertiary education level, it would be much easier to spread knowledge out to other educational institutions and then nationwide. Performance Indicators and the way of evaluating the Expected Results had been drawn up with that in mind.

133. The Chair took the floor to introduce Program 14.

Program 14

134. The Delegation of India had two queries with regard to Program 14. Firstly, concerning the proposed Committee of Global IP Infrastructure, the Delegation assumed that this was a new body which would be set up by WIPO and requested more information about the background to the setting up of the Committee, in particular its Terms of References (TOR's). The second query was a request for background information concerning the Annual Global Symposium of IP Authorities. The Delegation wanted to know if this was the first symposium that WIPO was organizing and, if so, when and where it had been mandated.

135. The Delegation of Egypt had two points to note. First, it asked to receive information on the composition and mandate of the Committee of Global IP Infrastructure before the PBC approved it. Second, concerning "Challenges and Strategies", page 98 of the English version, the Delegation highlighted the fact that there was a diversity of Patent systems and suggested including a sentence to say that work would be undertaken without prejudice to diversity, including the substantive differences in Patent systems across Member States.

136. With reference to document WO/GA/38/10, "Standing Committee on Information Technology", the Secretariat said it wished to highlight the mandate and the reasons behind the proposal and to explain the composition of the committee. It emphasized that the PBC was not requested to discuss that proposal directly but that it was useful to give Member States the information for reflection. The Secretariat explained that there was a Standing Committee on Information Technologies under which there several Working Groups such as the Working Groups on Information Technology Projects and the Working Groups on Standards and Documentation. These Working Groups were established to work for the plenary session of the Standing Committee on Information Technology. The Secretariat further explained that part of that structure functioned very well, for example the "Standards and Documentation Working Group", which met once a year and adopted a number of standards. There was a need for maintaining this, hence the proposal to maintain the structure under a new name. The Secretariat remarked that there was a need to realign the Standing Committee on Information Technology to the new strategic goals. It mentioned that Strategic Goal 4 had been introduced by the Director General to reinforce WIPO's efforts to coordinate and develop the Global Intellectual Property Infrastructure.

137. On the issues of Coordination and Cooperation for developing Intellectual Property Infrastructure, the Secretariat noted that there was a need to establish a new International Cooperation Mechanism, such as a new committee, in which a number of issues concerning Cooperation and Coordination for developing IP infrastructure, particularly Global IP Infrastructure, could be discussed. The Secretariat proposed to establish two Committees under the new revised structure of the Standing Committee on Information Technology. One would be a Committee on WIPO Standards, which was a continuation of the current Working Groups on Standards and Documentation. The other would be the Committee on Global IP Infrastructure, to discuss a number of issues concerning data exchange and its format, best practices, and international mechanisms within which IP offices could collaborate for examinations or registrations. The Secretariat explained that the PBC approval was required to elaborate the specific agenda items for the Committee on Global IP Infrastructure. It added that the Secretariat had received requests from many Member States for technical advice and for the modernization of IP offices and for information on best practices in IP offices. For this, Member States should get together and share experiences in Multilateral Forum. For further details, Member States could refer to document WO/GA/38/10.

138. Concerning the issues and concerns raised by the Delegation of Egypt, the Secretariat suggested addressing specific concerns on the diversity of national laws and regulations and added that it had no objection to incorporating the sentence requested by the Delegation.

139. In response to the intervention by the Delegation of India on the Symposium, the Secretariat mentioned that this was the first symposium for Intellectual Property Authorities such as IP offices and ministries or government agencies responsible for Intellectual Property Policies. This symposium was an initiative by the Director General aimed at allowing the exchange of views to facilitate communication and discussions amongst IP Authorities.

140. The Delegation of India requested that the Secretariat provide clarification concerning the Terms of Reference of the Committee and clarify where the setting up of the Committee was to be approved, as it understood that the PBC was not the forum to approve it. The Delegation also asked how the Member States would proceed with allocating a budget for the Committee.

141. The Delegation of Egypt questioned the need for a Committee as it believed that the same work was done in Working Groups. The Delegation feared that there would be too many committees covering the same issues. The Delegation wondered if there would be an added value in having a new committee, bearing in mind that this structure would require more time for the Member States to participate in. It added that it was possibly premature to discuss these issues for this Program and Budget if the Committee still had to be approved by the Member States. The Delegation also inquired where the additional sentence it had wanted to see included in the text should be inserted.

142. The Secretariat confirmed that the proposal for the establishment of the Committee was to be discussed by the WIPO General Assembly, which would be invited to consider and approve it. The Secretariat expressed the difficulty in making a proposal for reforming and restructuring Standing Committee on the Information Technology without speaking of budget allocations. It explained that this was the reason for which this new proposal was reflected and referenced in the Program and Budget document. The Secretariat added that both aspects, the budgetary and the policy considerations, could be discussed at the relevant meetings of the Assemblies. The Secretariat specified that the Committee was not new, it was more a question of reactivating a dormant Committee in order to be more in line with the Strategic Goals. A need to discuss issues related to Global IP Infrastructure such as Patent Information Dissemination Policy had been identified. There was not yet a suitable body to discuss the Dissemination Policy of Patent Data and Patent Information. The Secretariat expressed its desire to ensure increased transparency and accountability for important issues in relation to the Global IP Infrastructure and explained the need for a new, separate body with a mandate to discuss issues like information, dissemination policy or other emerging issues in relation to Global IP Infrastructure. The Secretariat, addressing the request made by the Delegation of Egypt, expressed its willingness to discuss the revised text with the Delegation so that its intentions were reflected in the most appropriate manner in the further revised text of the Program and Budget.

143. The Delegation of India thanked the Secretariat for its elaborate response and acknowledged that the spirit behind the Secretariat's proposal to set up the Committee on Global IP Infrastructure might have merit. It said it was also clear that there were substantive issues that the Committee would be asked to look into. It noted that whether this was a new Committee or the revival of a dormant one, it did amount to the creation of a new body in WIPO and, as such, was of great significance. This was something that the Delegation

wished to look at more closely, as it had not had the time to consider the implications of the proposal and it was not clear what the overlap would be with the PCT Working Group or the SCP. It further observed that there was no reference to the revival of the dormant SCIT in the text that was before them. Accordingly, the Delegation requested that these few lines be deleted from the text of the document. A more detailed proposal, outlining the background, the Terms of Reference of the committee, the stated objectives, and how it would interlink or link up with the PCT Working Group, could be presented at the General Assembly. The Delegation suggested having a more informed deliberation on the issue before it was approved by Member States.

144. The Delegation of Egypt noted that the statement by the Delegation of India reflected its concerns as well. The discussions about the establishment of a new intergovernmental body prior to its approval of by the Assemblies was not appropriate to include in a document meant to be approved by the PBC and presented to the Assemblies. It stressed that its views were not meant to suggest that the proposal would be looked upon negatively, but simply that the creation of a new intergovernmental body had to be approved by the Member States before such body could be referred to in WIPO documents.

145. The Secretariat (Executive Director, Yoshiyuki Takagi) explained that the formal proposal (document WO/GA/38/10) was issued on July 24, 2009 making it possible to amend the text of the proposed Program and Budget document to reflect this proposal. However, it was not intended to request the PBC to approve the proposal regarding the establishment of the new Committee on Global IP Infrastructure, as it was the WIPO General Assembly that would discuss and approve such a proposal. The Secretariat further noted, however, that the reference to the proposed new Committee could be deleted from the narrative of Program 14 in the budget document.

146. The Chair considered the discussion of Program 14 to be completed and invited delegations' comments and questions in respect of Program 18.

### Program 18

147. The Delegation of South Africa welcomed the move of Innovation Promotion and Technology Transfer from Program 1, but wished to request clarification as to the reason for moving it under Program 18, since it did not see the innovation aspect and technology transfer linkage to the Global Challenges part. It further pointed out that the program narrative contained very little in respect of Innovation Promotion and Technology Transfer and as to how WIPO would do this in terms of the developing countries' priorities.

148. The Delegation of India reiterated the point it had made during the closing remarks offered by the Director General at the last session of the PBC, which was that Innovation Promotion and Technology Transfer was first and foremost a developing country concern. Accordingly, it had requested that when it was moved into a separate program, it be included under Strategic Goal III, which was Facilitating the Use of IP for Development. The Delegation did not see any linkage with Global Challenges, where Innovation Promotion and Technology Transfer was placed, because the latter was not commonly viewed as a Global Challenge. In the Delegation's view, the only linkage to Global Challenges came with regard to the transfer of technology from developed countries to developing countries, and there was noticeably no reference to that aspect in the whole write-up. The Delegation therefore felt that there was a dissonance there and requested once again that Innovation Promotion and Technology Transfer be moved under Strategic Goal III where it should rightly belong. The



Delegation addressed the budgetary allocation for these activities, noting that it was submerged under the overall allocation for the Global Challenges Program and therefore it was not clear how much money was going to be allocated to these activities. The Delegation estimated that the 1.2 million Swiss franc allocation for non-personnel resources for both Global Challenges and Innovation Promotion appeared to be inadequate, considering the importance of the subject for developing countries and the huge amount of work that needed to be done both under Global Challenges and under Innovation Promotion.

149. The Delegation of India felt that the narrative focused on the narrow use of IP, asset management and exploitation and that it should rather begin with the consideration of the preconditions necessary for IP to be used as a tool to promote innovation, including absorptive capacity and technological capabilities in the countries where Members sought to promote innovation. It requested that this important point be addressed in the activities that were identified. It further requested that the elements pertaining to competition and anti-trust policy, which had a major impact on Innovation Promotion and Technology Transfer, also be included. The Delegation deemed it an important part of Innovation Promotion to give good quality advice to Member countries on evolving appropriate competition policies. To follow on, it called for a reference as to how Innovation Promotion could take place in the informal and traditional sectors. For instance, indigenous people in developing countries in traditional rural communities also generated significant innovation. The point was to determine what steps could be taken to preserve and protect those systems. The strategies that could be developed to commercialize at face value the IP assets of those rural and indigenous communities which also generated IP, should also be addressed.

150. The Delegation of India suggested including a reference to the establishment of a pool of useful technologies which were not covered by patents and which could be of help to developing countries and LDCs. Perhaps this pool of technological know-how and technical knowledge could be coupled with expertise and funds to set up viable businesses in developing countries. The Delegation further noted that the Expected Results, Performance Indicators, Targets and Baselines should be further refined, as they were inadequate and required modification to make them more specific target-oriented so that at the end of the year Member States would know how much progress had been made, how much more there was to go.

151. The Delegation of Brazil welcomed activities that supported strong well-founded policy dialogue between governments, international organizations and the private sector on current and emerging global issues touching on IP. It did agree that, as a specialized UN agency with distinctive expertise to address development-related IP issues, WIPO was called upon to participate in the international policy dialogue on the intersection between IP and Global Policy issues. In that sense, WIPO should actively cooperate with diverse international partners, particularly within the UN system, in order to contribute to the search for solutions to the major challenges facing humanity. The Delegation thus believed that WIPO might contribute to policy debate in areas as diverse as public health and climate change mitigation as a dialogue partner and a source of technically sound analysis in the systems. It was nonetheless not sure that WIPO was the appropriate policy forum in those areas. It believed that WIPO would need to have a clear mandate on that direction. Accordingly, it suggested the deletion of the words “and as a policy forum in its own right” from the following line (first paragraph, page 118): “to fulfill this and tap potential demands on active role on the part of WIPO as a dialogue partner, as a source of technically sound analysis and assistance and as a policy forum in its own right”. The Delegation was convinced that the increase foreseen in resources allocated in 2010/11 for consultants was of fundamental importance,

and that this would bring a development perspective of those issues. It further noted that it would be very welcome to have some consultants from developing countries with those development perspectives.

152. The Delegation of Pakistan recalled that, during the last informal meeting, it had requested that in the narrative section, regarding the access to knowledge confronted by disabled people, the scope be expanded to cover not only disabled people but other people as well, that meant those who had problems in access to knowledge because of certain IP-related aspects.

153. The Secretariat (Director, Patent Division) indicated that it would first address the issue of the move of Innovation Promotion and Technology Transfer to Program 18. It recalled the Chair's Summary of the informal session of the PBC in July where it said that this reflected Member States' comments and the Global Challenges nature of that work. While the innovation and technology transfer activities were particularly important to developing countries, they were also important to all countries. Furthermore, while the bulk of these activities would pertain or relate to the patents area, they also related to and covered other categories of IPRs. They were therefore not confined, as the Delegation of India rightly pointed out, to one category of IP rights. All countries also needed to focus on innovation and indeed, both developing countries and developed countries did so. Finally the Secretariat mentioned that technology transfer was very relevant and close to many of the global issues of global challenges that were treated there, in particular, climate change, public health, food security, and others. The Secretariat received more and more requests to associate technology transfer activities with these particular technologies, because they needed to be transferred more easily in those areas in particular. The Secretariat further clarified that the budgetary allocation foreseen for Innovation Promotion and Technology Transfer remained identical to what had originally been proposed under Program 1, i.e., 3,248,000 Swiss francs. This amount had been removed from Program 1 and added to Program 18. Of the total amount, personnel costs amounted to 2.4 million Swiss francs, and non-personnel costs slightly over 800,000 Swiss francs. Turning on to IP, the Secretariat indicated that it fully agreed that more emphasis could be added in respect of the preconditions that needed to be addressed in order for technology transfer to work, beyond intellectual property. It recognized the importance of informal technology transfer and how to preserve the interests, for example, of the rural communities. It also noted that more emphasis could be placed on supporting innovation in the area of traditional knowledge, as the Delegate of Algeria had indicated previously. In response to the comment from the Delegation of Brazil, the Secretariat confirmed that it planned to work more closely with other UN Agencies in the areas of innovation and technology transfer.

154. The Secretariat responded to comments that dealt directly with Global Challenges. With respect to the comments of the Delegation of India, it agreed that there was a need to look at competition policy and anti-trust violation issues, but it also reminded delegations that WIPO was implementing a specific project under the Development Agenda on IP and competition policy. In respect of the suggested possibility of pooling useful technologies not covered by IP, as announced by the Director General, the Secretariat would in particular pursue the initiative on open innovation which would necessarily comprise the elaboration of databases that would include more than just patented technology. The Secretariat wished to highlight ongoing cooperation with a number of UN agencies under Global Challenges, including WHO, UNITAID, WTO, UNCTAD, UNESCO and FAO. It also took note of the suggestion to delete the expression "and as a policy forum in its own right". The Secretariat wished to draw the attention of the delegations to the fact that when speaking about Global

Challenges, they referred to two types of challenges. There were the challenges for which IP was instrumental, i.e. not at the core of the challenge but could be used to help solve the challenge, such as food security, climate change, or access to health. But there were some challenges in which IP was at the core and the use of IP was the solution of the challenges. In that regard, it could be referred to international transfer of technology, biotechnology, the use of patents for obtaining financial resources - all of those were Global Challenges in which IP was at the core. In those cases, WIPO was indeed the policy forum to discuss those issues. The Secretariat then answered the question from Pakistan, saying that the overall thrust of Global Challenges was the use of IP to create and disseminate knowledge for the progress of the whole society. It added that the intention was not to open doors to knowledge only to the disabled people but to the entire society. The Secretariat further explained that the reference to the disabled people was made in a very specific context of using some exceptions to copyright, to make access to knowledge easier to the disabled people. The issue had already been raised in the SCP during discussions on the Global Challenges conference. The Secretariat said that the comment would be taken on board and the text in the program narrative will be revised accordingly.

155. The Delegation of South Africa, regarding the reply on the policy debate, said that it fully understood that there were various policy issues that WIPO did. However, considering that this was not reflected in that sentence, it supported the proposal made by Brazil to delete the line “*and as a policy forum in its own right*” and requested the Secretariat to elaborate the cooperative work with other UN Organizations further.

#### Program 20

156. The Chair invited the Secretariat (Assistant Director General, Geoffrey Onyeama) to answer questions regarding Program 20.

157. The Delegation of India pointed out incoherence between the last paragraph of description of Program 20 which said that the strategic role and function of WIPO’s External Offices would be elaborated in the context of the MTSP, and the Director General’s foreword on page 5, that did not include issues such as the review of External Offices. Regarding the November 2009 Conference on Mobilizing Resources for Development, the Delegation recalled an understanding (at the last PBC session) that the Secretariat would conduct a cost-benefit analysis of the expenditure envisaged for the Conference: airfares provided to high-level dignitaries attending the Conference, etc., and the kind of pledges or donations that were expected. The Delegation requested clarification regarding the November 2009 Conference, because as far as it understood no pledges were expected to take place at that time. It was a conference with a wide-ranging agenda that touched upon Global Challenges and many of the public policy IP issues that were being debated.

158. The Secretariat (Assistant Director General, Geoffrey Onyeama) thought it had modified the foreword to include, as was suggested, references to External Offices. On the question of the Conference, the Secretariat said that at the very beginning, during consultative meetings a number of Members pointed out that, due to the financial crisis, this might not be the best time to try source funding from various sources. It was suggested that the Conference could be a means to make contact with potential donors. WIPO’s experience in fund-raising so far had been mostly limited to governments that had provided resources in the framework of funds-in-trust. That was therefore a new area for the Organization and it was felt that it might be too ambitious to organize a pledging event. Not being sure how successful that would be, especially in the context of the present financial crisis, it was decided to adopt a

different approach reinforced by meetings with potential donors, and not to go forward with a full-fledged pledging conference. The new strategy was to use the Conference to raise the level of awareness amongst potential donors of the kind of work that WIPO carried out. Meetings with potential donors revealed that the level of understanding of IP, of the work of WIPO and its impact on development was not always very clear and very strong. Therefore, quite a bit of advocacy still needed to be carried out. To summarize, the Conference that would be organized in November would essentially be a framework to introduce potential donors to Intellectual Property, to the work of the Organization and to explore with them possible partnerships in the future. It was setting the foundation for further cooperation. With regard to the cost-benefit analysis for the Conference, a budget had been approved. However, the Secretariat was not expecting to pay, as such, for high-level dignitaries from developing countries to participate. The arrangement was going to be like one for other WIPO conferences, where a certain number of delegates, technical officials, would take part from the various regions and there was usually a certain agreed number of delegates per region. The Secretariat said that this was going to be the extent of the financial commitment for the Conference.

159. The Delegation of Pakistan recalled that, during the last informal meeting, it had raised three questions on Program 20 and wished to see the answers reflected in the revised text. The questions were: (1) what were the criteria for opening external offices; (2) what did PriceWaterhouseCoopers review say about such offices, the number of staff and opening of new offices; and (3) what was the relationship between Bureaus and these offices. One answer given to the Delegation last time was that they might impart training to the regional countries. Should this be the case, the Delegation wished to know whether experts were available there to impart training to the regional countries or whether experts would have to be flown in from WIPO. Second, the Delegation understood the answer provided on the cost-benefit analysis of the forthcoming Conference in November. The Delegation doubted that it would be wise to spend more money on holding the Conference if it was not going to bring in additional resources. There did not seem to be any guarantee that, in the future, such type of conferences would be bringing financial assistance or additional resources to the Organization. Therefore, the Delegation wondered on what rationale Member States were proceeding and whether it was the most prudent use of the existing resources which WIPO had for the LDCs and developing countries - to hold the conference without anything concrete in hand. The Delegation said it would appreciate receiving clarification on this point.

160. The Delegation of Egypt specified that its comments pertained to the last paragraph on page 132, under Challenges and Strategies, pertaining to the mobilization of extra-budgetary resources. The Delegation noted that this was taken out from Section 2, as agreed during the informal session last July. However, two issues required clarification. The first pertained to the fact that Member States were starting to lose track of the reasons for holding the November Conference. The Delegation pointed out that the Conference was to be held specifically to implement recommendation 2 of the Development Agenda. However, when reading that paragraph now, the Delegation did not see that link and also believed that this was more of a generic reference that the Organization was undertaking to mobilize extra-budgetary resources. The Delegation requested that the reference to recommendation 2 of the Development Agenda be introduced. The Delegation said that it had noticed that there had been, especially in a time of economic crisis, limited resources within the budget, decreases in the budget, concerns about where development funds from the regular budget were coming from. It observed that ideas were being expressed about funding development from extra-budgetary funds. The Delegation wished to stress that that development was a main function of WIPO and this had been confirmed by the Development Agenda. As such, talk of extra

budgetary resources was of a secondary nature to the proper essential functions of the Organization in ensuring that sufficient resources were devoted for development from its regular budget.

161. In respect of acceptance of extra budgetary resources by the Organization, the Delegation of Egypt believed that it was time for WIPO, before engaging further in this endeavor, to establish a code that would be approved by the Member States to govern the acceptance of such funds. Accordingly, it suggested including the following wording at the penultimate sentence, in that particular paragraph: “in the 2010/11 biennium, WIPO will, as a priority, seek to mobilize additional resources for development related activities and follow up on the outcomes of the conference”. It suggested introducing the following words: “based on a code for accepting such resources, developed and approved by the Member States” after the phrase: “seek to mobilize resources for development related activities”. The Delegation predicted that this would, in the long term, save a lot of discussions on the policy for accepting such funds. There was a need to ensure that these funds were normative neutral and that there was no vested interest. The Delegation deemed it a good investment over the long term, and called on the WIPO Secretariat to hold consultations with the Member States in order to develop this code over the coming year.

162. The Delegation of India considered that, given the economic crisis and the belt-tightening that the Member States had been urged to do, the comment about assessing the value in terms of outcome of the November Conference was timely. Against that background, the Delegation had a question pertaining to the cost borne by WIPO towards the July Conference, in which several dignitaries participated, and the anticipated cost of the high-level segment of the upcoming Assemblies.

163. The Delegation of Switzerland referred to the proposal made by the Delegation of Egypt to include wording on the Code of Conduct regarding extra-budgetary funds. It observed that debate had been ongoing since the very beginning of the Development Agenda discussions and a clear conclusion had not been reached yet. In its view, it was something that should be discussed in the context of the CDIP. Once a decision was taken there, Member States could see what objectives to set within the budget. The Delegation did not think that time had come to discuss the issue within the PBC at that stage.

164. The Delegation of France supported the statement made by the Delegation of Switzerland. It also thought that, at the moment, it could not accept the Egyptian proposal as it believed that the matter needed to be discussed within the framework of the CDIP.

165. The Secretariat responded to the Delegation of Pakistan’s request for the criteria for establishing of the external offices and said that there were no established criteria as such. It recalled that the different offices served different functions and, apart from the New York Office which liaised with the United Nations, the other offices were established as the result of specific requests and proposals made by Member States. For instance, the office in Japan was approved by the General Assembly when the Japanese Government made a proposal for that office. The offices in Singapore and Brazil were established following request from the respective Governments, approved by Member States. The PriceWaterhouse desk-to-desk review did talk about a decrease in the staff and headcount in the Organization, but the creation of the offices had not necessitated, up to this point, an increase in the headcount of the Organization, as staff had been transferred from Headquarters to these offices. The Secretariat said that it had been working very carefully to avoid any duplication and overlap between the functions of the Development Cooperation Bureaus in the Organization and the

External Offices. The Secretariat referred to the documents leading to the agreement between the Organization and the host country establishing Singapore office, from which it could be seen that the governments of the region believed that these offices would add value by raising the level of awareness within the sub-region more effectively. Moreover, the presence of WIPO would strengthen the relationship between WIPO and the region. The greater visibility that would consequently be given to the Intellectual Property system would aid the national offices in those countries in achieving their objectives. These were the objectives and rationale articulated by the countries in those regions.

166. In answer to the question regarding training, the Secretariat reiterated its answer given in the previous meeting, that these offices would conduct training programs in the region more effectively. The Secretariat informed the membership that, in the case of Singapore office, an agreement had just been signed for the establishment of a WIPO Arbitration and Mediation Center there, which would also provide the possibility of training in the area of arbitration and mediation services. The countries of the region themselves felt that there was an added value that could be provided in the area of training by the offices in those regions and WIPO responded favorably to these requests. The Secretariat then explained what these offices could do, could not be done from Headquarters. It said that the offices were very cost effective in undertaking missions. The fact that these offices were located in those regions meant that fewer staff could undertake more missions at much lower costs than flying out the staff from Geneva.

167. Responding to the concerns about the possible guarantee of success of the November Conference in November, the Secretariat pointed out that there was never any guarantee of success with any initiative, but when looking at the practices of other organizations, it saw that there was an opportunity there that could be explored. The Secretariat added that it took the point made by the Delegation of Egypt that the regular Program and Budget should take care of the development needs, but pointed out that the reality was that the requests made simply could not be satisfied by the regular budget of the Organization. It was felt that, to be able to do justice to these requests as much as possible, an initiative could be taken to see if resources could be supplemented by engaging with potential donors. As Egypt pointed out, that particular conference was a request made by the CDIP pursuant to recommendation 2 of the Development Agenda. It therefore had been, and still was, a very much member-driven initiative. The Secretariat said that since the November Conference was a result of a specific request contained in the Development Agenda, it seemed fair to reflect it more unequivocally in the document. The source of funding was always going to be an issue and the Secretariat had made it clear in the informal discussions held with the Member States on the Conference that it was mindful that the Organization did not have the mandate to receive any source funding from the private sector. It was mindful of the conflict of interest and problems that this could pose and that any initiative in that direction would need the specific approval of the Member States. Consequently, what the Secretariat was engaging in at the moment was engagement with development agencies of the Member States' countries, not dissimilar from funds-in-trusts arrangements. The Secretariat mentioned that questions from the Delegation of India regarding cost of the high-level segment of the General Assembly and other meetings that had just taken place did not relate specifically to Program 20 and will be answered in the afternoon session.

168. The Chairman concluded discussions on Program 20. Following an informal review with the representatives of the Regional Groups on the question of the membership of the Audit Committee, the session was reconvened to continue with the review of Program 27.

Program 27

169. The Delegation of Oman thanked the Secretariat for adding the amendments with regard to the use of languages. However, it had a query on the budget indicated on page 175, which it found incompatible with the proposed amendments in the implementation of a more efficient linguistic approach. The Delegation proposed that a sentence be added at the end of the last paragraph under the Challenges and Strategies section, which was: “to carry out an analytical study with regard to the publication of all studies and researches in the official languages for the benefit of all Committees and to present that to the following session of the Program and Budget Committee.”

170. The Delegation of Egypt fully endorsed the statement and the amendment made by the Delegation of Oman. It stressed that it was concerned about the 20% reduction in non-personnel costs in the Program, bearing in mind that developing countries had consistently requested that more funding be made available to ensure translation of documents into official languages. The reduction in funding appeared to contradict the undertaking by the Director General that he would ensure that documents became progressively more available and therefore requested clarification in this regard. The Delegation endorsed the language proposed by the Delegation of Oman to be inserted in the program narrative, as it considered that such a study would enable Member States to take a decision in respect of the use of languages. To enable Member States to track progress on this issue, it suggested the insertion of a new Expected Result and the corresponding Performance Indicator and Baseline referring to the availability of documents in the official languages of the United Nations.

171. The Delegation of Yemen thanked the Secretariat for the great effort undertaken to prepare the documents and welcomed the translation by WIPO of all the documents that were related to folklore, traditional knowledge and IP into the official languages. It hoped that this practice would be applied to all the working committees in the Organization. It supported the proposal made by the Delegation of Oman. The Delegation was concerned about the reduction of the financial resources dedicated to translation. It explained that many officials in their capitals did not fully understand foreign languages and had the right to benefit from the documents in their own language.

172. The Delegation of Spain recalled that at the last meeting in July, it had expressed its disagreement with the budgetary proposal for Program 27, as had a number of other Delegations. The proposal under discussion at the current session, however, did not reflect the outcome of those debates. The Delegation insisted on access to information being an essential element for equal treatment of all Member States. To deny the possibility of translation and interpretation of that information to Delegations was to deprive them of being able to take part in the discussions on an equal footing and, probably, defend their interests. As the Delegation had already indicated in its statement on Item 5 of the Agenda, the document was made available only a few hours before the meeting. The Delegation therefore questioned if that was admissible to work on the issue as such a sensitive as the budget under those circumstances. For all those reasons, it could not accept that unjustified and discriminatory treatment was being given to parts of the budget, in particular with regard to the Spanish language and despite what might be added by other delegations on the subject of their languages.

173. The Secretariat (Assistant Director General, Binying Wang) confirmed that the Secretariat was fully aware of the problem raised and understood the position of the Member States. The Secretariat nevertheless assumed that, as indicated in the Program and Budget

itself, everybody knew that language services were a resource-intensive service. In respect of the reduction of non-personnel costs, the Secretariat pointed out that it would continue to make every possible effort to ensure that the service could be maintained within the established budget constraint. As indicated already in the Program and Budget document, starting next year the Secretariat intended to gradually cover all the languages, as required, for the other committees. The Secretariat also endeavored to use increasingly technically supported means of translation, increase outsourcing of translation, as well as ensure better organization in order to issue documents within the required deadlines. However, due to the number of meetings and demands from the Member States, this task was challenging at times. In response to the proposal made by the Delegation of Oman, the Secretariat confirmed that research had already been initiated for the purposes of a study on the Organization's comprehensive language policy. The Secretariat explained that WIPO's language policy was restricted by certain Treaty obligations, and any changes to the policy would require legal procedures to amend the Treaties. However, the suggestion to prepare a study on a comprehensive language policy for the Organization was accepted by the Secretariat. Concerning the view expressed by the Delegation of Spain, the Secretariat fully understood the concern and repeated that it would make every possible effort to resolve the issue.

174. The Secretariat recalled that it had published, after the informal session, a summary of the questions, comments and the responses that were provided during the first initial discussion on the draft 2010/11 budget proposal. One of the questions related to the reduction in non-personnel costs for Program 27. As explained previously, the primary reason for the reduction in non-personnel costs was due to the transfer of the budget for the maintenance of photocopiers and printers to Program 25 (ICT). The Secretariat explained that one of the key areas to be addressed in the course of the strategic realignment and the restructuring was the administrative area and the ICT, which had received a number of new responsibilities. One of these related to the maintenance of all photocopiers and printers across the Organization, which made this function and the related process much more cost-effective. The other reason for the reduction in non-personnel costs related to the fact that, in 2008/09 there had been budget allocation for three Assemblies (under Program 27), while only two Assemblies were budgeted under the 2010/11 budget. Furthermore, Program 27 was currently implementing Electronic Data Management System – a project for which approximately 700,000 Swiss francs were budgeted in 2008/09, and which was not budgeted for in 2010/11. The Secretariat summarized that the bulk of the reduction in non-personnel costs related to specific items that were high-cost in nature in their own right. It said that it was worth recalling that the delay in the availability of documents was not the fault, or the problem, of translation services or the unavailability of resources, but rather the fact that some of the English documents were submitted to translation services very late.

175. The Delegation of Oman reiterated the concern that the reductions in post costs as well as non-personnel expenditures (SSAs) could hamper the effectiveness of the program in achieving the strategic objectives which appeared in the document. The Delegation reiterated the importance it attached to languages. These programs were of chief interest to the Delegation and the concerned governments, first and foremost, especially in the light of the instruments that were created within the Organization and which were of great use to them. Accordingly, all documents and studies, especially the analytical studies which would enable the Organization to develop language policies, should be published in all languages.

176. The Delegation of Egypt expressed its thanks to the Secretariat for the information provided. Regarding the revision of the program narrative and the reference to the study which was ongoing, it requested that the proposal made by the Delegation of Oman be taken



into full consideration, since this would establish an acceptable timeline for the completion of the study, i.e. in time for the next regular session of the PBC. The Delegation further suggested that WIPO explore the possibilities of receiving technical assistance for this study from other UN agencies, even from UN Headquarters in New York. The Delegation also requested the inclusion of a new Performance Indicator and Expected Result, and wished to know what kind of language could be included that would assist with measuring the performance of the program providing the language in the documents and studies in the different languages.

177. The Delegation of Ecuador referred to the last statement made by the Delegation of Spain, pertaining to the use of Spanish as a working language. In that regard it wished to highlight what GRULAC said in the morning, i.e., that working documents should be made available in Spanish and the appropriate budgetary allocation should be made available for that to happen so that documents could reach delegations in time and be given the due consideration they deserved.

178. The Delegation of Germany indicated that there was merit in the study proposed by Oman and lent its support to the idea. In the current context, however, it wondered whether it would be reasonable to include an Expected Result and Performance Indicator on this subject, and suggested that this might be more appropriate once the study results were available and Member States had taken the decisions. The Delegation also wished to be informed of the cost of such a comprehensive language policy, and noted that the study should address this aspect as well.

179. The Delegation of Senegal pointed out that the chief aim of everything done and carried out in the Organization was to seek consensus and compromise. This could not be achieved, however, if the people involved could not understand each other. It further stressed that, to be able to understand each other, they needed to break down the linguistic barrier. Information, even if it was available, was not accessible if people did not understand the language in which it was conveyed. That was the reason information needed to be available in various languages and documents had to be made available within a reasonable time.

180. The Delegation of Egypt thanked the Delegation of Germany for its understanding of the need to have the study. On the other hand, with regard to the inclusion of the Performance Indicator, it saw no contradiction between both because the Performance Indicator was to measure development between what was written and what the Secretariat said it would accomplish. Accordingly, the Performance Indicator it was introducing went to the very last sentence in the Challenges and Strategies identified by the Secretariat. The Secretariat said that “for the coming biennium, the languages of documentation for the Intergovernmental Committee on Intellectual Property and Traditional Knowledge, Folklore and Genetic Resources will be expanded to all the official languages of the UN, to be followed by documentation for other committees as financial and human resources permit”. That would be the Performance Indicator which would measure what the Secretariat had proposed and how much had been accomplished. That was a separate issue from the study that would require the Member States decision to instruct the Secretariat what to produce in what language.

181. The Delegation of Spain wished to specify its earlier statement and stressed that it was in favor of multilingualism and endorsed the statement made by the Delegation of Senegal. The Delegation also supported the opinions expressed by the Delegation of Oman, in the sense that that study was needed.

182. The Secretariat reiterated that it had already embarked on the work, having started the research, and was very much aware of the importance of that issue. It also indicated that doing a comprehensive study of that kind, taking into consideration the treaty implications and the languages used by WIPO and other UN organizations and the resources they had and how much they could have, would certainly involve a cost. One thing it could guarantee to the Member States was that the study would be made and would be published for access by all the Member States. However, whether it should be in the current Program and Budget with a guideline or with a Performance Indicator, was an issue which should be discussed with the Controller's office.

### Program 17

183. The Delegation of Brazil welcomed the adoption of the new name for Program 17 - Building Respect for IP. It stressed that "enforcement" (appearing in the old name) related to repressive action and believed that "respect for IP" included other important aspects, e.g., educative campaigns and economic measures. Furthermore, the Delegation suggested some new language, to ensure that both economic and educative dimensions of the new concept were taken on board. It specifically referred to the Expected Result which read "International cooperation and the integration of IP issues in enforcement related activities of partner Organizations". The Delegation proposed to change as follows: "International cooperation and the integration of activities of partner Organizations in the process of building respect for IP". Regarding the corresponding Performance Indicator and Target, the Delegation proposed the following: "Number of activities related to building respect for IP of inter- and non-governmental organizations with common goals organized by key leading partner organizations and the private sector." Regarding the last activity mentioned on page 115, the Delegation did not have any language suggestion but recalled that, according to the Program, it was related to Development Agenda recommendation 45. The Delegation recalled that recommendation 45 indicated that the intellectual property enforcement shall be approached in the context of broader societal interest and especially the development-oriented concerns, with a view that the protection and enforcement of IP rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology for the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare. The Delegation pointed out that the Expected Results in their current formulation were only focused on the strengthening of IP framework and enforcement-related activities. Moreover, only right-holder cooperation, private sector, enforcement-oriented inter- and non-governmental organizations were mentioned. In that sense, the Delegation requested that, in performing its work related to recommendation 45, these activities also cover the cooperation with social organizations: WHO, UNCTAD or any other relevant organizations.

184. The Delegation of Pakistan thanked to the Secretariat for improvements in the language of the Program. It shared the concern raised by the Delegation of Brazil regarding the creation of an enabling environment. It welcomed incorporation of the wording on that concept, but said that the real lessons of that enabling environment concept were missing from the language. During the informal session of the PBC, the Delegation had made some language proposals in the text of the Program, i.e., in respect to the Challenges and Strategies. The Delegation indicated that it did not find the reflected language, particularly in regard to some recommendations for the Committee on Enforcement and how it should proceed. The Delegation said that the Committee should, in the next session, identify the elements of the enabling environment and then proceed during its subsequent sessions with the discussions on

what those elements were and how or what efforts could be made to bridge the gaps or the challenges in the field of building respect for IP.

185. The Delegation of South Africa shared the concerns raised by Delegations of Brazil and Pakistan and supported all the proposals that had been made by both Delegations. In view of the discussions in the informal meeting, it also requested that the wording under the Challenges and Strategies for Program 17 on the Global Congress be modified. In particular, the Delegation would like to replace the wording “WIPO Member States will be closely associated in the organization of this event” with the following wording: “WIPO Member States will be closely consulted and informed in the organization of this event”. The word “associated” should be deleted.

186. The Delegation of Israel pointed out that the respect for IP and copyright among children and youth was extremely important. The education for the respect to IP should be a high priority and an important challenge to WIPO. The Delegation recalled that a publication was distributed during the last General Assemblies which focused on children and youth and the respect for IP. Having welcomed that initiative, the Delegation wished to know more about efforts of the Secretariat in this direction, in particular in relation of the use of the Web and publications for this purpose.

187. The Delegation of India expressed its strong support for the statement made by Delegation of Brazil on Program 17. It wished to reinforce the comments made by the Delegation of Brazil about the economic and educative aspects of building respect for IP and the pertinence of Development Agenda recommendation 45. It strongly supported the changes proposed by the Delegation of Brazil in the wording of the text of Program 17. It further expressed its support for the comments made by the Delegations of Pakistan and South Africa. The Delegation commented on the wording of the Program Objective. In line with the comment from the Delegation of Pakistan on the objectivity and an empirical basis for the work under this Program, the Delegation requested that the Program Objective should start with: “Informed and empirically well-founded policy discussions at the international level...” The amended text was to include a wording “and empirically well-founded”

188. The Secretariat (Deputy Director General, Michael Keplinger) thanked all the delegations for their observations and suggestions. The Secretariat said that it had tried to emphasize the importance of recommendation 45 as it was mentioned in the first paragraph on the Challenges and Strategies under Program 17. It agreed with the comment from the Delegation of Israel on the importance of education for building respect for IP. It was important to understand its importance to society and the Secretariat was working to improve its efforts. The Secretariat had tried to follow recommendation 45 in organizing the program for the next meeting of the Advisory Committee on Enforcement and was focused on the issue of broadening the scope to take into account the broader societal impact and not just the coercive effects of enforcement itself. In regard to comments about the Global Congress, the Secretariat appreciated the desire of Member States to be more involved in the process but recalled that there were other organizations involved in the organization of the Global Congress. WIPO would try to bring a perspective based on recommendation 45 to the organization of the program for the next Global Congress. The Secretariat had taken note of the proposals regarding the wording of the text.

189. The Delegation of South Africa wished to comment on the issue of the wording by stressing that, by being a Member State, countries were already associated with the event in question and therefore it felt that there was no need for further association as implied in the

current version of the text. The Delegation indicated that it did want to remain informed and, where possible, consulted on the development of the Global Congress.

190. The Delegation of Pakistan proposed the following change in the wording of the text for Program 17. In reference to the first paragraph under the Challenges and Strategies, the text would read: "...will guide WIPO's work on building respect for IP in the context of broader societal interests and development-oriented concerns". The Delegation felt that, since the scope of Program 17 had been broadened, there should not be a narrow focus on the enforcement issue only.

191. The Delegation of India endorsed the comment of the Delegation of South Africa. It requested further information on the Global Conferences, i.e., the topics to be discussed, basis for the choice of speakers and panelists and the participating organizations. It indicated that there were a number of regrettable incidents recently, namely the case of genuine generic pharmaceutical drugs being confiscated at certain ports while they were in transit, even though they were legitimate exports and legitimate imports both in the country of origin and the country of destination. The Delegation recalled that that particular issue had been raised by the Delegation in the WTO and elsewhere. The Delegation asked whether WHO was also involved in the event given the thrust on enforcement with regard to certain sectors related to it.

192. The Secretariat said that it would try to strengthen the language on informing Member States of the activities. It recalled that the cooperation with Member States in the past, on the nomination of speakers, had been very good and there had been individual consultations which would be further broadened. The Secretariat then clarified that the 2009 Global Congress was organized by Interpol and that WIPO was there in an advisory capacity. It said that in the recent Steering Group meeting it specifically raised the issue of recommendation 45 and its broader socio-economic approach to the question of building respect for IP and the enforcement of IP rights. The Secretariat was working hard to focus elements of the program for the coming Global Congress as required.

193. The Chair concluded discussion on Program 17 and gave the floor to the Controller to clarify budgetary aspects relating to all programs, in particular to the points not dealt with by the various members of the Secretariat who answered specific questions on the specific programs

194. In relation to the question from the Delegation of Spain on Program 9 and Program 30, the Secretariat (the Controller) clarified that Program 30 on SMEs was previously included in Program 9. When the two programs were separated, the corresponding amounts were also split. In this regard, the Secretariat made reference to the information provided in Annex to document WO/PBC/14/4. In reference to a comment to set aside an amount equivalent to 1% of the value of WIPO buildings by way of precaution in order to maintain the building, the Secretariat considered the suggestion as reasonable. It indicated that WIPO had strived to undertake the required maintenance works on a regular basis to avoid major repairs. Regarding a request for regular information on the program for voluntary departures proposed by the Organization, the Secretariat confirmed that the program was underway. It had received about a hundred or so expressions of interest from staff members. However, it was still the early stages of the program. The Secretariat reported that so far it had only about a dozen confirmations and it was too early to judge whether the plan was working well. Regarding the requests for administrative support made by the Audit Committee, the Organization would do everything in its power to honor these requests. It had further noted

195. The Secretariat noted that there were a number of comments with respect to the policy on the use of Reserves and called Member States' attention to the document to be distributed under Agenda Item 12 on the use of these Reserves. In respect of a general policy on Reserves, the Secretariat would prepare a document for the forthcoming session of the PBC. The funding of the Development Agenda projects raised two separate issues – one of process/substance and one of immediate funding need. The Secretariat acknowledged that there was a problem of substance with respect to budgeting for those activities and that it would have to demonstrate flexibility and rigor. It suggested reviewing the budgetary process, incorporating it within the regular Program and Budget process. The Secretariat suggested that the Development Agenda projects be integrated into the various programs that were presented to the Member States at the meeting. That coordination would obviously take place with the Directors of these programs and bearing in mind the recommendations issued by the CDIP. The Secretariat therefore proposed to put forward a proposal for the specific implementation of that process and submit that proposal to the next PBC meeting, which would resolve the problem of substance, the underlined problem that Member States had raised. The Secretariat expanded on the other problem - that of funding for projects to be submitted to the November 2009 and April 2010 sessions of CDIP. It recalled that 2.2 million Swiss francs had been set aside for the projects identified in the CDIP's April 2009 session. Other projects would be identified in November and possibly at the beginning of next year, for which the Secretariat suggested to allocate an additional 2.3 million Swiss francs provisionally, which would enable these projects to be started. After the PBC meeting in September, additional expenditure could be approved and it was confident that this additional 2.3 million was more than enough to get these projects up and running, as well as any new projects identified during that time period. All the amounts that had been mentioned would be deducted from Unallocated Expenditure.

196. The Secretariat noted the suggestions for the text amendments for a number of Programs: 5, 8, 9, 14, 16, 17, 18, 20, 27, and 30. If Member States were in agreement and there were no objections, it would agree to modify the text as requested. It concluded by saying that it had strived to positively reply to all the requests thoroughly and in detail and those were the answers and the proposals that it was in a position to give in order to reach a

consensus. If such a consensus was reached, it would prepare a modified decision paragraph, which would be submitted to Member States for their comments and consideration. The Secretariat hoped that it had taken into account all the requests and thanked Members for their attention.

197. The Chair said that, as no delegation wished to make comments, they would continue with the review of the Agenda items.

198. The Delegation of Egypt thanked the Secretariat for its concise presentation, but wanted to know whether the changes would be reflected in the report, so that the current session would adopt a report that would include all these different changes to the document.

199. The Secretariat responded, explaining that regarding the decision itself, the paragraph would be amended so as to take into account the points that it had mentioned and the amendment of decision paragraph would be submitted to the Member States for approval as the recommendation to the General Assembly. A document listing all the decisions taken by the PBC would be prepared; however, it would only reflect the text of decisions, as there was no time to prepare full session report before the Assemblies in view of the fact that they were scheduled for the following week. The full report, which would be prepared at a later stage in accordance with the established practice, would reflect all requests for changes made by delegations.

200. The Delegation of India requested further clarification in respect of the additional amount proposed to be allocated to Programs 8, 9 and 15. The Delegation also requested clarification as to what activities these amounts were envisaged to be allocated, and who had requested it.

201. The Secretariat clarified as follows: for Program 8 an extra 100 000 Swiss francs; for Program 15 an extra 130 000 Swiss francs; for Program 9: an extra 220 000 Swiss francs; and for the Development Agenda an extra 2.3 million Swiss francs. It hoped that the amounts and allocations were now clear.

202. The Delegation of France requested further information on the reason for the proposed increases in Programs 8, 15 and 9.

203. The Delegation of Egypt requested clarification in respect of what would be presented to the Assemblies; whether there would there be a summary of the Secretariat's proposal, together with a list of changes to the various program narratives. It added that it was still not clear what the proposed budgetary increases were intended to be used for.

204. The Delegation of Israel requested clarification on the amounts announced by the Secretariat, and requested confirmation of whether these all came from unallocated resources.

205. The Delegation of Germany considered that the additional 2.3 million Swiss francs for the Development Agenda implementation was indeed an example of the flexible and creative solutions that delegations had been endeavoring to find. The Delegation said that it understood that this allotment would be made on a provisional basis and that it would be subject to the final approval by the PBC the following year, and trusted that the Secretariat would find the appropriate formulation to adequately reflect this.

206. The Delegation of India expressed its disappointment at the figures considered at the moment. It recalled the intervention of the United States of America requesting the increase of 1 million Swiss francs for SMEs, whereas the Secretariat proposed an increase of 0.1 million. From the proposed figures it did not seem that the interventions made by Member States with regard to the SMEs had been taken account of. The Delegation considered the increase of 0.1 million to be less than a drop in the ocean when compared with WIPO's overall budget. Regarding the specific allocation of 2.3 million Swiss francs for the implementation of the Development Agenda projects that were likely to be approved in November 2009 and April 2010, the Delegation requested the basis for this calculation. It added that, considering the projects that had been approved in one meeting in April this year, the logical anticipatory budget outlay would have been a double of that. Additionally, many interventions on that day indicated that Member States were looking at proposing Development Agenda coordination and monitoring mechanisms. The Delegation of India regretted not to find this reflected in proposal to provide for that mechanism. It further requested clarification on the increase of 0.13 million Swiss francs for IP office modernization. On Program 9, the Delegation requested clarification on the marginal increase of 0.2 million Swiss francs, asking what purpose it was for. To conclude, the Delegation said that, in the several preparatory meetings, it had asked, together with several other delegations, for an enhanced allocation for innovation, promotion and technology transfer but did not see this request reflected in the proposed revisions. The rather negligible increases were shown in areas where it was not clear what they were intended for.

207. The Delegation of Switzerland wished to react to the last statement and said that a discussion had taken place to meet the requests made so far. It also recalled that it had intervened to state that there was the budgetary process, that a review of the budget for the following year could be done and that it began to see the need to allocate further resources for the Development Agenda. It said that if the Secretariat's suggestion to allocate an extra 2.3 million Swiss francs might provide some comfort to some delegations, even though that money could have been re-allocated the following year without any difficulty. The Delegation believed that there were limits to what could be done and it was necessary to look at how the amounts could be redistributed. Therefore, the Delegation would prefer to leave things as they stood at the moment instead of calling them into question.

208. The Delegation of Egypt declared while discussing program and budget issues it was necessary to know how the figures had been arrived at, i.e., why it had been 2.3 million Swiss francs and not 3.6, not 4. It requested the basis of the calculation for the sums of 100,000 for Program 8, 130,000 for Program 15 and 220,000 for Program 9 and wished to know what they would be used for.

209. The Delegation of South Africa expressed its shared concerns with what had been said by the Delegations of India and Egypt. The Delegation believed that it had the right to see what the proposed allocations were for and how the amounts had been calculated. It further requested specific clarification on the concerns raised and requests for increase made regarding the Development Agenda and. The Delegation stressed that there was consensus on that issue, adding that it would appreciate if the Controller could provide clarification.

210. The Delegation of Brazil shared the concerns expressed by previous speakers. It wished to know if the resources were allocated for the projects that would be approved in November, whether the implementation of the projects could start in January, utilizing that resource, or whether it would have to wait until September or when the annual revision of the budget would take place. It asked whether that resource was allocated for use as soon as the project

was approved, or whether it had to wait for the approval of the revised budget the following year.

211. The Delegation of India agreed with the Delegation of Egypt on the notion that PBC was not charity. It stressed that members of the PBC were there to look at the budget document and request changes as they deemed necessary. The Delegation said that if there was any reason why Member States should not make changes, this should be discussed. It also found the amounts announced to be surprising. The Delegation thought that the purpose of the process was to take on board the views and opinions of Member States and to make adjustments where required. It added that Member States were not asking for additional 50 million francs in any program. When looking at the larger envelope, it said the changes asked for were very small and eminently doable.

212. The Delegation of Egypt, like the Delegation of France, wished to know the source of the funding for the increases proposed in Programs 8, 9 and 15 and whether it involved a corresponding reduction in other programs or whether this was a new funding.

213. The Secretariat clarified that, as far as the amounts (on the Development Agenda) and how they were calculated was concerned, the proposed additional amount of 2.3 million Swiss francs, took into account the amount which had been indicated at the CDIP April meeting. It was deemed appropriate to have an amount equivalent to the amount which had been allocated to the CDIP in April in order to start on the implementation, the establishment and implementation of projects which could be identified in November and possibly at the beginning of the following year. The Secretariat then responded to the question asked by the Brazilian Delegation - could the implementation begin – and said that the purpose of allocating additional 2.3 million Swiss francs provisionally - was to ensure that delegations could identify projects and start upon implementation immediately, i.e., from January 2010. As to the source of financing, as indicated by the Secretariat in its previous statement, the amount was deducted from the amount listed under the heading of “unallocated expenditure”. The Secretariat did not doubt that the Member States recalled that there were such unallocated sums and said that they would be reduce in order to finance these proposed amounts. Turning to Program 8, Program 9 and Program 15, the Secretariat thought it had responded to the requests made and particularly to the requests made by the Coordinator of the African Group. The aim was to see higher amounts, and the amounts indicated were the ones which the Secretariat was in a position to allocate to these three programs. It was up to the Program Managers and the Member States to decide on the specific use of the funds, as required. The Secretariat added that the amount allocated to SMEs and the increase in the budget between 2008-2009 and 2010-2011 had been 26%. It was understood from various delegations, including the Delegation of the United States of America, that the delegations wanted to see an increase in cost other than staff costs. The Secretariat took 10% of the amount of costs other than staff costs in order to allocate 100,000 Swiss francs to SMEs, i.e. 100,000 which were additional to the 26% increase in the budget over the previous budget level.

214. The Delegation of Egypt said that the methodology was now clear and that the amount corresponded to what had been agreed in the previous session of the CDIP, but estimated that in that case, this amount needed to be doubled because there were two CDIP sessions coming up, in November and March or April, meaning that there should be 4.6 million allocated rather than the 2.3 million.

215. The Delegation of India noted that after two days of intense talks less than half a million Swiss francs had been provided as additional budget for four programs (8, 9, 15 and 30) and



2.3 million francs given for the Development Agenda project implementation. It stressed that it had two specific concerns, one on the SMEs – the United States supported by the Delegation of India requested an increase of at least 1 million Swiss francs and there was a very big difference in comparison with the amount that was being proposed. Consequently, the Delegation requested once again that, for the reasons that had been outlined several times in the PBC at its July session, this amount be increased by at least 1 million Swiss francs. The second point was about the Development Agenda. As expressed by the Delegation of Egypt, it was going to take one year for projects approved in November to be formally approved by the PBC, i.e., projects that approved in November 2009 would be approved formally in September 2010. In view of this time lag, the logical way of identifying a budgetary outlay would have been to double it, which would lead to 4.4 million Swiss francs, and also keep a cushion for the Development Agenda coordination mechanism that was on the CDIP agenda. The Delegation said that it would be unfortunate if Member States were asked to wait for an entire year to even discuss it, as this was what they heard in the CDIP April session and they would not like to hear that again. Therefore the Delegation was of the opinion that substantial appropriation of the Development Agenda project outlay would be in order.

216. The Delegation of Germany said that having listened to the repeated explanations by the Controller, it understood that the 2.3 million for the implementation of the Development Agenda projects to be agreed upon, was an initial funding, which was especially earmarked. The Delegation understood that this would be the final number. It could in fact be more or it could even be less, depending on what the CDIP decided upon. At this stage, the Delegation could not predict what the deliberations in November and in April 2010 might lead to, and it did not share the concerns expressed by previous speakers since, in essence, everybody had come a long way to reach this sort compromise. A number of delegations made it very clear that the notion of due budgetary process was an important one and that it was not possible to do away with it. Therefore the Delegation estimated that the 2.3 million Swiss francs allotment was quite reasonable and requested some indulgence and discretion of the delegations concerned to avoid blocking the process. It added that there seemed to be an emerging consensus on the matter.

217. The Delegation of the Netherlands appreciated the efforts made by the Secretariat to help find consensus on the Program and Budget. Concerning the additional 2.3 million Swiss francs for the Development Agenda implementation, the Delegation understood that this amount was meant to start the implementation of projects that would be agreed in November, basically until the time when the revised Program and Budget was ready. The basic understanding was that the 2.3 million was there to cover the nine-month period for which there was no Program and Budget allocation because there were no figures yet. The Delegation of the Netherlands understood that additional amounts could be allocated when revising the Program and Budget in September 2010. The Delegation wished to know whether 2.3 million was for the first nine months or was intended for the full biennium. If it was for the latter, the Delegation would understand some of the concerns expressed by other delegations.

218. The Delegation of Israel stated that according to the practice in the Fifth Committee in the UN, one had to have a program, then one had to specify the expected accomplishments and only then the budget was allocated. This was relevant to the Development Agenda as well as to SMEs program. The Delegation referred to the Expected Results and Baselines for SMEs. This Baseline mentioned in page 78 said that the baseline would be established during the biennium, as there was no concrete baseline at this stage since this was a new program.

The Delegation wondered if the organization was not putting money in the air; there was the increase of 28% mentioned before and another 100,000 Swiss francs which the Delegation could not see exactly where it went. The Delegation did not know what the United States meant by asking for 1 million for SMEs. The Delegation said that there needed to be a program, the Expected Results and later on the budget allocation. It further remarked that that was the usual budgeting process in the UN system.

219. The Delegation of Pakistan said that it understood the Controller's explanation to mean that the amount was just the starting amount and that the exact amount was going to be agreed during the revised budget discussion at the PBC in June. It requested the Secretariat to provide the estimates for the projects which were going to be discussed in the November CDIP meeting. The Delegation fully understood that the exact estimates could not be provided because those projects were going to be agreed by the Member States, however Member States wished to have a fair indication on how much those projects would entail. The Delegation also requested information on the costing for the April meeting, and asked what would happen to the projects that were going to be agreed during that meeting - whether those projects would wait for the budget revision by the PBC in June/July the following year or whether they would also be implemented immediately after the April meeting of the CDIP.

220. The Delegation of South Africa agreed with the concerns raised by the Delegations of Germany and the Netherlands. Not knowing exactly what the cost of Development Agenda activities was going to be following the November and April meetings, the Delegation wished to see a certain amount allocated. The Delegation understood the Controller to say that the proposed amount was budgeted based on past recommendations, meaning that this was more or less the amount for November. Should this be the case, it wondered about the fate of projects to be approved in April. The Delegation wished to add a further request for the costing of the mechanisms that had been proposed (there seemed to be two such proposals). The Delegation's primary concern was that the implementation of the Development Agenda activities throughout the entire Organization would once again be subject to the budget restrictions and would have to wait for the PBC to approve or a revise the budget. This was the situation delegations were trying to avoid and the reason for which they were asking for an earmarked allocated amount. The Delegation added that, according to what Germany had indicated, this full amount would not necessarily be used or it could be more. It asked for a sufficient amount, based on the calculation that had been used in the past, to be allocated for these activities so as to avoid discussion on budget issues at the CDIP. It added that a budget issue was coming up in CDIP, which seemed not to be the case in other standing committees within WIPO.

221. The Delegation of India requested clarification on the estimated expenditure for projects that would be adopted in November this year or in April next year and asked for information on the coordination mechanism. It deemed the figure indicative, as the final decision as to the amount that would be authorized in the November meeting would be an intergovernmental decision, in which case it was very likely that Member States would come forward with their own proposals, thereby probably modifying the proposals of the Secretariat. It added that any budgetary process had to take this factor into account. The Delegation endorsed the need for specific programs before making allocations to them. It noted that the Organization was about to sign off large amounts under the PCT system, the ICP system and the regional bureaus in the absence of specific projects. It also noted that these figures were much larger than what was currently under consideration for SMEs or for the Development Agenda. The Delegation of India assumed that the Development Agenda already had specific projects outlined by the Secretariat and that, consequently, there must be a great deal of detail and

specificity concerning the kind of amount that would be required. In view of this, it requested the Secretariat to give them an indication of the kind of expenditure foreseen in the forthcoming two sessions of the CDIP and the Coordination Mechanism.

222. The Delegation of the United Kingdom welcomed Israel's comments on the appreciation of the due process, which they had also mentioned, and backed the comments made by Germany about the fact that 2.3 million to 4.6 million Swiss francs was quite a significant increase in funds. The Delegation was concerned that there may be a degree of micro-management of the decisions made by the Committees and that this could make for an undesirable precedent of trying to micro-manage decisions with the bodies.

223. The Delegation of Egypt disagreed and noted their satisfaction with the Secretariat's approach of using the figure from the previous CDIP as the amount that would be set aside. It said that there would be two committee meetings that would hopefully produce two sets of projects and that, consequently, the envelope would have to contain sufficient amount to cover both meetings.

224. The Delegation of Germany pointed out that if the Secretariat were to provide some of the requested estimations, these would concern an initial amount and that not all the funds needed to be there from the very beginning.

225. The Secretariat confirmed that 2.3 million Swiss francs was an initial amount destined to enable the projects brought forward at the November and April sessions to get underway. It added that it seemed very unlikely that the entire amount of 2.3 million, as allocated, would be spent between June and September 2010. The September 2010 PBC would have to validate the options selected by Member States. The Secretariat was aware that the budgetary process governing CDIP projects was not entirely satisfactory and that it would have to be reviewed.

226. The Chairman invited the Director General to take the floor to reply to questions that were raised the previous day.

227. The Delegation of Senegal extended its thanks to the Secretariat for having followed up the concerns expressed by the African Group. It requested clarification in respect of the 2.3 million Swiss francs to be allocated for Development Agenda projects to be submitted to the CDIP's upcoming two meetings, and indicated its concern that this may not be sufficient to cover the funding requirements of the projects endorsed by the CDIP. It wished to know what would happen with the projects if the funding requirements were not fully covered by the 2.3 million Swiss francs. It further wished to record its concern in respect of the fact that extra budgetary resources were funds allocated for a specific purpose defined by donors. In its view, there should be a framework for the allocation of extra budgetary resources, to ensure that Member States know where they came from and how they were going to be used, for what purpose, etc. That was considered to be very important and summarized the concerns that the Delegation wanted to express on behalf of the African Group.

228. The Delegation of India wished to thank the Director General for his personal participation in the deliberations. It noted, in respect of the elements in the Director General's foreword, the reference to the Medium-Term Strategic Plan, which it believed was a very important tool for streamlining the Organization. It wished to receive clarification in respect of the linkage of the MTSP and the Strategic Realignment Program and to be given a sense of where and how the MTSP linked to the larger objectives of the Strategic Realignment

Program. The Delegation recalled the Secretariat's commitment to circulate, every year, a status sheet on the staffing positions and requested that this be reflected in the document in order to ensure that there was a record of what transpired during the sessions on this issue. It also reminded the Secretariat of its outstanding request to provide information on the cost of the high level segment of the General Assembly and expenditures involved in the July and November events. The Delegation further requested that a date, time and a forum be given for the consultations envisaged in respect of the forthcoming Global Congress on Counterfeiting and Piracy. It added that its preference would be for a formal meeting, taking place in a formal committee within an intergovernmental process, rather than informal consultations.

229. The Delegation of Algeria thanked the Director General for attending the meeting. It supported the statement of the African Group on the subject of facilitating the involvement of developing countries in the work of the Organization's committees. The Secretariat was to select five African countries whose participation would be facilitated in the work of a particular committee and then five or three for the Arab countries. The Delegation pointed out that there were more than a hundred countries in the African Group and more than twenty in the Arab Group, and therefore it would like to see the number of countries increased in order to ensure these groups' better involvement in the work of the committees.

230. The Delegation of Egypt thanked the Director General for joining the meeting. The Delegation noted that the Global Congress on Counterfeiting in 2011 was an important event, on a subject debated in more than one forum and which brought up a lot of questions and arguments. The Delegation therefore supported the idea, proposed by India, of it being planned in an intergovernmental body of the Organization. The Delegation also supported the statement of the African Group, on the issue of ensuring the availability of funds for the future implementation of Development Agenda projects. It wished to ensure that this initial outlay would be sufficient for the projects to be adopted by the CDIP in November and April, without prejudice to the position of Member States on a monitoring mechanism. It added that if there was eventual agreement on a monitoring mechanism, its budgetary requirements should also be covered from this funding. In respect of Program 20 (page 132 of the document), the Delegation drew attention to a reference made to extra-budgetary funding which the Organization would engage in efforts to raise. It further noted and stressed the importance of having a code to govern the use of this funding. It noted that if a systematic solution could not be found, an *ad hoc* solution could be drawn, e.g. that any extra-budgetary fund and particularly its conditions, would have to be approved by the Member States.

231. The Delegation of South Africa supported the statement made by the African Group, and reiterated its request for clarification on the amount allocated for the Development Agenda. The Delegation further noted its support for the comments made by the Delegation of India regarding the geographical and gender balance in the Organization, and suggested that the Director General's foreword should refer to a policy of ensuring such geographical and gender balance. The Delegation expressed its support for the statement of Egypt on the issue of the extra-budgetary funding, and also requested more clarity with respect to the availability of the MTSP document.

232. The Delegation of Cameroon welcomed the presence of the Director General at the meeting. It endorsed the concerns expressed by the Delegation of Senegal, in particular on the subjects of the non-hierarchical nature of the committees; the extra-budgetary funding; and funding for the Development Agenda. It also requested the Secretariat to confirm whether the proposed 2.3 million Swiss francs would cover CDIP III, IV, and V.

233. The Delegation of Brazil thanked the Director General for his presence, stressing that it was very important to have him there to hear some of their main concerns. It wished to support the views expressed by the Delegations of India, Egypt and South Africa regarding the Global Congress. In light of recommendation 45, it was important for the Delegation to ensure participation of other entities in addition to WCO, Interpol and the private sector at the Congress, since a better representation of civil society and the participation of WHO were needed in order to open other perspectives in the discussion. In the Delegation's view educational campaigns were more important in fighting counterfeiting and piracy than economic measures. It also expressed concern that implementation could move ahead for the projects presented to the CDIP in November and April as soon as these were approved. In this light, it suggested that wording should be found to reflect that the allocated funds would be available to begin the implementation, following which the overall amount would be reviewed within the context of the budget revision the following year.

234. The Delegation of Sri Lanka observed that comments made by the delegates of the developing countries mostly requested clarity, transparency and fair-play in respect of programs and indicated that it shared their concerns. With regard to the CDIP, the Delegation proposed to set aside resources for the activities of the CDIP so that budgetary allocations would not have to be discussed at the Committee. This would enable delegations to focus more on substantial issues like programs and projects and what could be achieved in terms of the money that had been already allocated. It was assumed that, especially at a time of financial crisis, this method would be the most favorable and the Delegation hoped that the Secretariat would take into consideration the views of all the Member States and come up with a fair solution at the end of the present meeting.

235. The Delegation of Indonesia thanked the Director General for his attendance. It shared the views conveyed by previous speakers as it attached great importance to the CDIP, to the Development Agenda implementation, and wished to see adequate funding for the implementation of the Development Agenda made available. The Delegation also supported the proposal of the Delegation of Egypt in respect of resource mobilization. It highlighted its experience with the Global Congress on combating counterfeiting and piracy held in Dubai in 2007, noting that the issue of enforcement had more emphasis than the balanced approach, especially from the perspective of developing countries. In that regard the Delegation supported the proposal of Brazil that it should have greater involvement of civil society, better representing the concerns of developing countries.

236. The Delegation of Tunisia supported the statement by Senegal. As Coordinator of the Arab Group, it also supported the statement by Algeria about covering expenses of participants from the Arab and the African countries and wished to see such participation increased, in view of the importance of the topics dealt with by WIPO. The Delegation was grateful to WIPO for the efforts made so far and noted that it attached great importance to the Development Agenda and hoped that the necessary funds would be made available for its implementation.

237. The Delegation of Zambia welcomed the presence of the Director General. It supported the statement made by Senegal in calling for further clarification on how the 2.3 million Swiss francs for the Development Agenda was arrived at. It also wished to revert to Program 20 regarding the November Conference for mobilizing resources for development, noting that in its understanding, this was not a pledging or a financing conference, but was rather intended

for advocacy and mobilizing a popular constituency. In that regard, the Delegation asked that a sentence to that effect be included in the program narrative in order to clarify this issue.

238. The Delegation of Egypt supported the statement made by the Delegation of Tunisia as Coordinator of the Arab Group. It noted that the Organization was entering into a period of intense work, reflecting the dynamism of the current administration of WIPO and the will of the Member States. It also highlighted that there was not a single day in November that did not have a meeting of an intergovernmental body. In conclusion it noted that the only effective way of dealing with such a busy schedule would be to be provided with sufficient funding to enable experts from capitals to come to these meetings.

239. The Delegation of Germany welcomed the Director General at the meeting. Following consultations in the morning, the Delegation confirmed that in the view of Group B, the answers given by the Secretariat and by the Controller the preceding afternoon to the various requests and questions from delegations had been comprehensive. While it acknowledged that some concerns from members of their group had not been fully reflected or endorsed by the answers, with particular reference to SME's, it was also conscious of the necessity for the Secretariat to respond to this difficult environment in a time of financial crisis, in a considered manner. In that respect, the Delegation found the answers to be very fair, addressing a number of very important issues, and it also considered that the explanations given in terms of reallocation of funds, and particularly the 2.3 million Swiss francs allotted to some possible future projects under the Development Agenda, were in this sense sufficient. In this respect, the Delegation wanted to highlight and reaffirm very prominently that the idea of earmarking or setting aside money was not what Group B had initially had in mind, and this therefore very much stretched the Group's position. A number of very serious concerns were expressed about this procedure within the Group, as members of the Group did not consider that it was in the spirit of due budgetary process, but rather more in the spirit of trying to build an emerging consensus. The Delegation added that it would be, in a final stage, ready to accept this as a compromise but only on an exceptional basis. As there would be a comprehensive strategy for the CDIP financing the following year, this current arrangement would be done on a provisional basis. On the notion of Group B disputing the discussion of financial allotment during the CDIP, the Delegation stated that the numbers themselves had not played a major role during the last CDIP discussion, since the idea of applying due budgetary process had been sorted out in advance under the able stewardship of the Chair of the CDIP. The Delegation nevertheless wished to caution against setting aside money for a coordination mechanism, since Group B had submitted a food-for-thought paper on this subject, and wished to make it very clear that it could only agree on introducing something resource neutral. Delegation considered the practice of funding of delegates from developing countries to be a very useful tool, making the decision-building in WIPO more comprehensive but it would not, at this stage, commit Group B to vague new policy on that matter. It requested clarification as to the existing funding mechanism and, possibly, ways to improve it.

240. The Delegation of the Iran (Islamic Republic of) said that it attached great importance to the implementation of the 45 adopted recommendations of the Development Agenda. It surmised that without sufficient allocation of money, the realization of the Development Agenda and the mainstreaming of the development dimension into the WIPO program and activities would be only a dream. In this regard, the Delegation supported the proposal made by the Delegation of Egypt. It was also of the view that the Conference on Counterfeiting and Piracy should be discussed within an intergovernmental committee.

241. The Delegation of Bulgaria addressed the fellow delegations and said that the question of the Program and Budget had now been discussed for over one day, many questions had been raised and a number of answers had been provided by the Secretariat. It associated itself with the opinion expressed by the Delegation of Iran, that dreams would remain dreams unless somebody put them into implementation. It thought that the Secretariat was the one that should convert those dreams into reality. However, reality depended on financial means and it was very difficult to comply with different requests and ideas within a limited financial envelope. In that, it commended the Secretariat on including these requests in the proposal submitted to the delegations. It believed that the discussion should now stop and that the delegations should ask the Director General to provide his explanations and decisions as to what was feasible. The Delegation pointed out that 12 items of the agenda were still to be considered and that the Committee was running out of time to discuss them.

242. The Delegation of the United States of America supported the statement made by Group B. From the Delegation's perspective, an orderly process needed to be ensured that would allow financial projections of the CDIP projects to occur through WIPO staff responsible for implementing these projects, with the PBC ultimately reviewing and improving these projections. The Delegation was deeply concerned about setting aside money outside the regular process, for projects that had yet to be analyzed substantively as the CDIP and had yet to be analyzed financially by the Organization. It was concerned that this was contrary to a sound financial management process. The Delegation stressed that the PBC needed to ensure that it did not set aside any money without first going through the necessary procedures and processes that had been developed for that purpose. The Delegation said it would dislike the situation where, ultimately, there would be a surplus in what was earmarked and then Members would be quickly forced to spend the money just for the sake of spending it. Lastly, the Delegation supported the concepts indicated by the Secretariat the day before with respect to the prerequisite in reaching a compromise on this issue, noting that this was an exceptional situation and that a comprehensive strategy would be developed. With respect to the issue of funding for the SMEs, the Delegation said that while the proposal made did not match what the Delegation had put forward, at the end of the day, it would look forward to any further developments or discussions on this point.

243. The Delegation of the Russian Federation, on the whole, supported the statement made by the Delegation of Bulgaria and stressed that Members had to break out of the deadlock in the discussion. It added that the constant repetition of even the best founded positions did not unfortunately bring Members any closer to resolving the problems. From the Delegation's point of view, the time had come to search for a real compromise. It thought that the Secretariat had, under the circumstances, done everything it could so the Delegation wished to appeal to other delegations show real good will and try to find a way out of the deadlock as soon as possible.

244. The Delegation of Pakistan recalled that many Members had said that they would not agree to a coordination mechanism which had financial implications. The Delegation did not consider such approach to be constructive. Proposals should be analyzed on merit and if they were considered sound, they should be implemented -, that was the coordination mechanism. Thus starting implementation without even discussing the coordination mechanism proposals would not lead member States to anything very positive. The Delegation requested all the Member States to discuss the matter of coordination mechanism and if there was a need for money for it then Member States should put money in that.

245. The Delegation of Egypt said that although it appreciated the comments made by the Delegation of Bulgaria, it felt that the positions of Member States had to be expressed clearly, so either the PBC should be extended or the agenda shortened. On the point raised by the Delegation of Pakistan, the delegation said that two proposals had been presented on the coordination mechanism: one was resource-neutral and the other had resource implications. It said that the matter should be discussed in the CDIP. However, should Member States achieve a consensus position in the CDIP that might entail resource, they did not wish to be told then that they could not proceed because not been budgetary allocation had been done.

246. The Chair invited the Director General to provide explanations on the matters raised by the delegations.

247. The Director General said that he would endeavor to address all the questions raised by the delegations. With regard to the point on extra-budgetary funding, the Director General noted that several constitutional provisions existed on this matter. He referred to article 11 (2) (b) (iv) of the WIPO Convention, and added that similar provisions existed in the Paris Convention, the Berne Convention and all the other treaties administered by the Organization that established fee-paying Unions. The provision was an enabling provision, which said that the budget should be financed from a list of sources, the fourth of was gifts, bequests and subventions given to the Organization. The matter was also taken up in the Financial Regulations and Rules that Member States had approved, particularly in Regulations 3.11 and 3.12. Regulation 3.11 said:

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

248. The Director General noted that this was the existing WIPO framework set by its Member States. He added, however, that the Secretariat would welcome a further discussion on this matter. The Director General explained that Funds-in Trust were donated bilaterally to the Organization by a particular Member State. Often, these Funds-in-Trust were given for specific purposes: the Government of Japan created such fund last year specifically for Africa, Brazil had given funds for certain specified objectives. The Director General believed that the overall question of extra-budgetary funding from non-Governmental sources was at the base of some of the delegations' concerns, and added that the Donor Conference in November would address this matter. The Director General commented that, in the context of medium-and long-term financial management, the fact that the Organization's revenue sources were limited would have to be faced. While there was growth in WIPO service systems, he pointed out that this growth was limited. On the other hand, the demand for development assistance was almost unlimited, which meant that there was an increasing demand for expenditure in the context of a very limited increase in the revenue. For that reason, amongst others, the question of extra-budgetary funding and a strategy for financial management was brought up. The Director General added that the Secretariat would be happy to engage in discussions on how this matter was managed within the framework of the existing provisions approved by the Member States.



249. On the point concerning the relationship between the Strategic Realignment Program and the Medium-Term Strategic Plan (MTSP), the Director General pointed the delegations towards WIPO website, where this information could be found on the part of the website devoted to the Strategic Realignment. The Director General specified that the program involved three main elements: the first concerned the corporate culture of the Organization, the second concerned the horizontal, administrative or business processes, and the third concerned the re-structuring of the Secretariat. The Director General recalled that Member States delegated the oversight of the Strategic Realignment Program to the Audit Committee, this Committee and the General Assembly. The Director General said that the MTSP was quite detailed and involved the strategic objectives of the Organization in the medium-term. The aim would be to arrive at a common understanding amongst all of the Member States as to where the Organization should be heading with its strategic objectives in the medium-term.

250. With regard to the issue of geographical balance and gender balance, the Director General said that he would be happy to see his foreword to the budget document amended to record his personal, and the Organization's, commitment to achieving equitable geographical balance and to improving gender balance. The Director General added that the Secretariat had agreed internally on a statistical presentation of data, to be published every six months, which would provide Member States with the information they sought. The Director General pointed out that with a very low, (1.5%) attrition rate of staff in the Organization, achieving the balance would take some time.

251. In response to the question of India on the cost of the events held in WIPO, the Director General specified that the budget for the Conference on IP and Public Policy Issues was 3670,000 Swiss francs, the upcoming Global Symposium of Intellectual Property Authorities had a budget of approximately 95,000 Swiss francs, and that an additional 374,000 Swiss francs were foreseen for the high-level segment of the Assemblies (there was also a commitment on the part of the PCT Union and the Madrid Union for the financing of participants for the Assemblies).

252. The Director General admitted that the issues surrounding the Global Congress were quite complex. On the one hand, the Secretariat welcomed all the discussions on how to deal with the question of respect for Intellectual Property. On the other hand, the Director General recalled that for a number of years this particular event was organized in partnership with two other Intergovernmental Organizations: the World Customs Organization and Interpol. Therefore, the Director General was rather reluctant to commit to the possibility that WIPO, as one of three partners, could determine the program. He was willing, however, to commit to listening and consulting Member States and passing on their views about issues and directions for the program. The Director General also said that the planned venue for the Congress had to be changed as the authorities of the proposed host country had indicated that they were unable to host the Congress. An offer had now been received from the Government of France to host the next Global Congress, which should take place in 2010. The host Government would naturally have some say on the program. The Director General reiterated his commitment to consultations and to passing on the views of the Membership about the program but, ultimately, the decision in this regard did not rest with WIPO alone. Regarding the financing of participation in the committees work by developing countries and LDCs, the Director General provided the following information. The existing formula that had been applied was: 25, representing five for regional group plus one for China for the main committees, i.e., WIPO financed 26 delegates. The Director General suggested that the

distribution of those delegates amongst the various groups should be discussed amongst the groups themselves.

253. The Director General responded to the questions raised in respect of the 44 million Swiss francs listed in item “Other” under the PCT and said that the major item of expenditure was 33 million Swiss francs for the outsourcing of translation. Internally, WIPO dealt with about 15-20% of its legal obligation for translations under the PCT and it outsourced the remaining 80-85%. Translation contracts were awarded pursuant to procurement procedures that were subject to audit by the various oversight bodies of WIPO’s oversight structure. The PCT was legally obliged to produce the English and French language abstract of every international application filed and, in addition, an English translation of every international preliminary report on patentability that was prepared by an international authority in a language other than English. The expenses under “Other” also included 1.2 million Swiss francs for computer assistance tools and computer assisted translations. That related mainly to licensing fees that WIPO paid and to testing and development work. Computer-assisted translation was a very important for various reasons. One of them was future productivity improvement and the containment of costs. Another was that it gave access much more quickly to the translations of the full text of international applications which disclosed valuable technology. The Director General further explained that 1.38 million Swiss francs was needed for scanning and archiving of 18 km worth of shelving space hosting PCT applications. There was also an amount of 700,000 Swiss francs in the legal area, mainly for consultants in various parts of the world who assisted PCT applicants with legal questions and with the structure of PCT and how it operated. In addition, the amount of 7.8 million Swiss francs was destined for Information Technology and outsourced contractual services: about 6.5 million Swiss francs for Research and Development in the field of IT outsourced to one company in Switzerland and two companies in India. The amounts were: 3 million Swiss francs for the Swiss company, which had 12 persons on site (amounting a saving of 12 WIPO staff members); and 3.4 million Swiss francs for one Indian company, with 6 persons on site each year and 30 persons off site. Thus, outsourced research and development resulted in considerable staff savings. The research and development was used, first of all, for the PCT user center, which was enabling applicants to interact online in a secure manner with their dossiers, which resulted in the reduction of faxes and paper correspondence. This was a complex matter as it involved some very serious issues, like authentication and security. The second element was the digital access service for priority documents, the third was the electronic dossier, the fourth was disaster recovery, the fifth was further development work on computer assisted translation, the sixth was infrastructure and consolidation work in moving from old mainframes onto desktop systems, and the last element was administrative and information service. All these were included in the 6.47 million Swiss francs outsourced for research and development. There was also 1.35 million Swiss francs for operations outsourced to a company based in Belarus related to electronic filing servicing. The overall amount arrived at was therefore 44.1 million Swiss francs, out of which 40 million Swiss francs was for outsourcing of services that WIPO staff might otherwise perform.

254. Regarding the Development Agenda and its financing, the Director General recalled that the Secretariat had proposed to make available the amount of 2.3 million Swiss francs for the implementation of Development Agenda projects, and additional resources in anticipation of the approval of projects in November 2009 CDIP and the ones proposed in April 2010 meeting. The Director General proceeded to explain the basis for this proposed amount. He said that the November 2009 CDIP would consider three projects. Two projects had the estimated budget of 1.9 million Swiss francs: 960,000 Swiss francs for the transfer of

technology and 936,000 Swiss francs for technology and patent information. The third project, on impact assessment, was being developed and its estimated cost would be very approximately 500,000-600,000 Swiss francs. The Director General wished to emphasize the “very approximately” phrase, as the experience showed that it was very easy to increase a budget and very difficult to decrease it. In the CDIP meeting, Member States would have comments on the projects, which could lead to amendments, as well as to increases in the estimated budget. Therefore, based on experience, a fairly generous margin of 20% increase on those estimates should be allowed, which would bring the cost of the three projects to 3 million Swiss francs. The Secretariat needed to ensure that the projects could commence and get well underway before the next PBC meeting in 2010, given the difference in timing between the CDIP and the PBC meetings, with the latter not scheduled until September 2010. The projects were planned to have a two-year life cycle. Therefore, what would be needed from December 2009 (immediately following the next CDIP), through to September 2010 (the next PBC meeting), was approximately 1.5 million Swiss francs (for less than full 12 months). The Director General said that the Secretariat also expected that there might be new projects at the CDIP meeting in April 2010 and it had allowed 400,000 Swiss francs for their start-up costs. Those start-up costs were for the period from April-May 2010 through September 2010. The total amount expected to be required for the full funding of the implementation of Development Agenda projects approved at the November 2009 and April 2010 meetings was 1.9 million Swiss francs: 1.5 million Swiss francs (50% of 3 million Swiss francs) and 400,000 Swiss francs for the estimated nine-month funding for new projects approved in April next year. The remaining 400,000 Swiss francs (out of the 2.3 million) was still earmarked for Development Agenda projects, “in case”. The resolution would come at the September 2010 session of the PBC when Membership would review the implementation and the final budgets of the projects approved in November and April. Should more funds be needed, they would have to be allocated in the September PBC session. However, the new money needed would be for expenditure after that time, as there would be funds for all of the expenditure foreseen (plus additional 400,000 Swiss francs) for the period up until September 2010. The last point that the Director General highlighted was the time-lag between the CDIP and the PBC meetings: with the CDIP approving projects and the PBC approving allocation of resources for them, the key question was how to make these various elements coherent and consistent with each other. The Director General proposed that the approach to adopt was exactly the one that Member States were also calling for, i.e., mainstreaming of the Development Agenda. The Secretariat would allocate the program management responsibility for projects under the Development Agenda. The Program Managers would have to incorporate the Development Agenda projects into their respective programs and budgets for submission to the PBC. In that way the time-lag between the approval of the projects and the allocation of resources could be mitigated.

255. In respect of funding for SMEs, the Director General recalled that the Controller had proposed, in response to Member States’ requests, to allocate an amount of 550,000 Swiss francs from “Unallocated” to various programs: 130,000 Swiss francs for Program 15, 100,000 Swiss francs for Program 8, 100,000 Swiss francs for (Program 30, SMEs), and 220,000 Swiss francs for Program 9. The issue that the Director General wished to put to Member States was that some of the budgets of the programs to which additional allocations had been made were large, e.g. around 40 million Swiss francs for Program 9, and the additional allocation to this amount seemed rather limited, as pointed out by some delegations. The Director General assured Member States that the Secretariat was simply dealing with limited resources available to it while trying to satisfy the requests made by the delegations. The Director General said that should Member States disagree with the proposed increases they could consider, and decide, to allocate the entire amount of

550,000 Swiss francs to Program 30, rather than distribute it in the way proposed by the Secretariat.

256. The Director General pointed out that having allocated the unallocated, the Organization would have no unallocated resources and consequently, the Secretariat was left with no flexibility since the item normally reserved for dealing with unforeseen events would have been allocated. The Director General specified that those unforeseen events did not necessarily come from external circumstances, but could come from Member States' requests. The Director General also said that the process of interaction between the Secretariat and Member States over the draft Program and Budget was a very rich and productive and one that he was very pleased to see occur. The Director General added that the process also resulted in the changing of the baseline. He recalled that at the informal consultations, the Secretariat listened to Member States' and took into account the requests made at that time. The consultations had been followed by the informal PBC session (when the baseline had changed as additional requests and comments had been taken into account). Consequently, by the time of the present PBC, the baseline had changed twice, as the Secretariat had taken into account the requests, considerations and comments made by the Member States. The Director General stated that despite its best efforts, the Secretariat could not satisfy all of the requests made and pleaded with the delegations to reach consensus and reach closure on the Program and Budget.

257. The Delegation of South Africa expressed its concern regarding the Director General's comment on the lack of flexibility because there was no longer unallocated item in budget. It referred to the funding of the Development Agenda activities and the fact that Member States had to resort to using unallocated resources to try and find ways to fund these activities, while they had repeatedly asked for that funding to come from the regular budget. In order to avoid there being no flexibility in future budgets, the Delegation stressed that Member States needed to ensure that this funding did not always come from unallocated funds. The Delegation requested clarification as to how the Director General would ensure that the flexibility would be maintained in the next Program and Budget.

258. The Delegation of India specifically thanked the Director General for providing the breakdown of the 44 million Swiss francs under the PCT system and the announcement that a biannual statistical representation (regarding staff geographical balance) would be made available to Member States. The Delegation appreciated the Director General's commitment to consultations with Member States on the Global Congress on Counterfeiting and Piracy and requested that this be included as an agenda item in one of the Intergovernmental Committees (SCP or other, as deemed appropriate) scheduled to meet shortly.

259. The Delegation of India then referred to the three likely development Agenda projects. It wished to stress the word "likely" because, at the last meeting, a very long, and elaborate discussion had taken place on how to proceed with these thematic projects. The principle agreed on by consensus had been that Member States would decide what projects, and in which order, would be implemented and how the recommendations would be clustered. Therefore, the estimates provided by the Director General were very provisional as it was certain whether it would be these particular projects that Member States would agree on. Regarding funding for the projects to be considered in the April 2010 meeting, the Delegation said that, if using the Secretariat's estimate of 1.5 million for the first half of the two-year cycle for three projects, another 1.5 million would be needed for the April meeting to be kick-started up till September 2010. The Delegation added that there was no reference to the Development Agenda coordination mechanism, which was long-delayed, much-awaited and

much-needed. The Delegation found it intriguing that while Member States accepted the importance of the Development Agenda, no importance seemed to be attached to the mechanism for its monitoring and implementation, and many delegations stated that it should be resource neutral. The Delegation said that emphasis on neutrality did not seem to apply to the new Committee being proposed or funding of several symposia held by the Organization. It seemed to the Delegation that the Development Agenda coordination mechanism was singled out and continued to be stillborn for the same reasons. The Delegation insisted on a specific budgetary allocation for this mechanism and requested that it be reflected in the budget document. It said that at the last CDIP, the matter could not be discussed because there was no budgetary outlay. The Delegation firmly believed that any new body could not be resource neutral –and for something as important as the Development Agenda, the Delegation failed to see the reasons to be resource neutral. The Delegation asked whether, the explanation by the Director General that Project Managers would be asked to outline the budgetary allocation required, meant that there would be a budgetary outlay in the budgetary process from now onwards. The Delegation also referred to the fact that Member States were looking at the third budget baseline and the matter should be brought to closure. At the same time, the Delegation believed this process to be important and suggested that the only solution was to hold more meetings of the PBC or to have a smaller body that would meet frequently to look at the program implementation of the budget (as recommended by the Audit Committee). It stressed that a lasting institutional solution should be found to the problem of time constraints and changing baselines.

260. The Delegation of Egypt commented on the plea by the Director General to move towards closure on the budget document and said that Member States' plea was to the Secretariat, to keep in mind in organizing meetings that delegations were only human and needed time to absorb information and tackle the issues properly. The Delegation therefore urged the Secretariat not to schedule PBC meetings one week before the Assemblies, and perhaps extend their duration. It agreed with the delegation of India that the exercise of moving on from baseline to baseline was a proper need, and it showed that the Organization had a watertight system of program and budget development. It added that the recommendation of the Audit Committee to have more frequent meeting instead of two PBC meeting a year could also be considered. On the Global Congress, the Delegation said that Member States would take the same position whether it was a WIPO, WCO or Interpol meeting. It wished to see the issue discussed by the Member States as it would be very odd if the position taken by governments at WIPO would be different from the position taken by the governments at WCO. This was an inter-governmental process; the conference was being organized by the Member States so the delegation supported the initiative to present this issue for discussion and approval by an inter-governmental body. With regard to flexibility, the Delegation noted that the Organization was in dire straights with the economic crisis and the dwindling resources. It added however, that the constitution of the Organization and some of the instruments, particularly the Financial Regulations, foresaw such eventuality and that the Director General had the flexibility to allocate funds among the various programs as the need arose. Should the need arise; the flexibility of moving funds among the various programs could also be used. The Delegation found the Director General's explanation regarding the Development Agenda funds and the CDIP is in line with the support for the Development Agenda.

261. The Delegation of Tunisia thanked the Director General for what it thought was a generous proposal for financing the Development Agenda projects. The Delegation wished to be advised from the legal point of view, whether the implementation of new projects to be agreed upon in November and April could start before they were adopted by the General

Assembly. Hence, it also wished to be advised whether there was a real need to allocate financial resources at the present point.

262. The Delegation of Israel urged the Secretariat to provide more detail/ breakdown, in all programs, in the next budget so that the heading “other” would not refer to a big amount of money without any specification given (like in the case of the PCT). It said that in the United Nations practice, “other” never referred to a significant amount of money.

263. The Delegation of Brazil associated itself with the statement made by Egypt on the issue of the Global Congress. On the Development Agenda, the Delegation supported statements made by the Delegations of the South African and India i.e., that it was strange to see the funds for such an important mission as the Development Agenda, referred to as a footnote of a non-allocated part of the budget.

264. The Delegation of Pakistan wished to retain the 100,000 Swiss francs cited by the Director General, for the Development Agenda. Regarding the coordination mechanism, it sought confirmation whether any funds had been allocated for it.

265. The Director General, in response to the question from South Africa and Brazil, confirmed that the objective of the proposed budgeting system was to remedy the time-lag between CDIP and PBC meetings, by ensuring that allocation was done in advance, bearing in mind that project management responsibility and the overall coordination remained with the Development Agenda Coordination Division. Project management responsibility would be allocated to the relevant program in advance. The Program Managers would ensure that the text and substance of their program and budget proposals for the ensuing biennium (12 months in case of budget revision) clearly indicated where there was the Development Agenda project and an estimate was given for its budget. That way Development Agenda projects would be mainstreamed into the ordinary budgetary process. The Director General added that the question remained what to do next year, in September when funds would have to be found. In response to the questions raised by the delegation of India, the Director General explained that there were 400,000 Swiss francs for new projects that might be approved in April - for a five-month period, until September 2010. In the case of November meeting, there was an additional 400,000 Swiss francs, and in addition to that, another additional 400,000 Swiss francs. The Director General thought that this was largely adequate to cater for any unforeseen expenditures that were not in the 1.5 million plus the 400,000 Swiss francs that he had mentioned and that this could cover the Development Agenda coordination mechanism.

266. The Director General said, in response to the legal question from Tunisia, that his understanding was that the CDIP had responsibility delegated to it from the General Assembly to approve projects. Then it was a question of the PBC allocating the resources for those projects, and the overall package was approved by the Assemblies in the way they approved the Program and Budget or the revisions to it. Regarding comments on the item “Other” under Program 5, the Director General explained that it simply reflected an old practice of WIPO that had not been modernized and due attention would be paid to it. He explained that before the practice of outsourcing, “Other” was an insignificant item. He confirmed that he had noted all the comments about the Global Congress and would endeavor to put them before the Advisory Committee at its November meeting. He stressed that he could not commit for other organizations despite the consistency that was maintained by Member States from organization to organization. He promised to consult and pass on all comments.

267. The Delegation of India reiterated that Member States were engaged in an important process and felt that they were under pressure to sign off on the budget document and that the delegations not ready to do so were seen as the ones blocking the process. The Delegation said that it was not the Members fault that there were so many agenda items to be covered over three days. It again requested the Secretariat to consider a mechanism where either more meetings would be held or more time given to discussions. It then turned to the issue of "Other" and said the problem with allocation under "Other" was not limited to the PCT system. It pointed out the amount of 14 million Swiss francs under "Other" for the ICT system. The Delegation stated that any budgetary allocation under "Other" should be restricted to half a million Swiss francs, or that a number be given and anything beyond that be properly listed. Coming back to the Development Agenda, it said that despite a large budgetary envelope of the Organization (618 million Swiss francs), there did not seem to be the money to even increase it by half a million. The Delegation considered this to be a strange situation and suggested this was due to the fact that membership did not want to touch any other programs but only wanted to find money from the unallocated resources category. According to the Delegation it was necessary to look at the larger envelope when talking about flexibility in the Organization. If there was 183 million Swiss francs for one program or 1 million Swiss francs for another, it should be possible and highly viable to internally readjust. The Delegation stressed that this was the spirit in which it made its observations only to find out that the idea of budgetary reallocation was restricted to the unallocated resources. The Delegation thanked the Director General for his explanation on 400,000 Swiss francs and how that figure was arrived at for the April meeting. It said that the logical amount would have been at least half of what was anticipated for the November meeting, i.e., 700,000 to 800,000 Swiss francs and this was also supposed to include the costing towards the coordination mechanism.

268. The Delegation of the Netherlands asked a question concerning the structural time-lag problem of the CDIP/PBC delay. The Director General had already indicated the basic solution foreseen. The Delegation wished to make it clear that that solution would not be adopted at that stage but that the issue would be discussed in the next PBC. It requested confirmation from the Director General that its understanding was correct or to be informed of any change in the procedure.

269. The Delegation of Pakistan thanked for the clarification that the 400,000 Swiss francs might be used for the coordination mechanism if approved by the fourth session of CDIP. It also wished to correct its previous intervention, in the sense that the 100,000 Swiss francs reserved for Program 8 should not be shifted elsewhere.

270. The Delegation of Egypt supported the Director General's suggestion to include Global Congress issues on the agenda of the Advisory Committee. With regard to what was stated by the Delegation of India, the Delegation estimated that generally, delegations were coming to a closure on the budget issue but stressed that, in the future, delegations did not wish to feel under pressure to adopt a budget. The Delegation believed that the Secretariat now had sufficient reasons to acknowledge the need for longer PBC sessions with a shorter agenda, so that the delegates were able to have sufficient time to discuss all the issues.

271. The Chair took the floor to clarify that there had not been any time pressure. He recalled that he had proposed to have longer meetings, hold extra meetings and possibly go on to night meetings, which the delegation did not wish to do. He added that, although at present the PBC was running out of time, no one actually put pressure on the delegations to finish the

budgetary discussion under Agenda item 5. The Chair reminded the delegation that among the outstanding items remained: the Reserves, the new conference hall and the Audit Committee. He recalled that three days had already been spent on budget discussion in July. He added that although it was important to go into detailed discussions, in his opinion a limit had been reached.

272. The Delegation of South Africa requested that note would be taken of the fact that it was Ramadan and that it would be difficult for some delegations to meet at late hours. This was the reason why they had asked for early meetings. The Delegation stressed that this was a very unique situation as compared to other UN organizations as WIPO had a Development Agenda; and that Member States and the Director General were trying to ensure that from the early stages all arrangements were done properly. In view of the questions raised by some delegates on these issues, the Delegation of South Africa suggested that the Secretariat hold a series of consultations in preparing the future budget for the Development Agenda. By so doing, by the time of the next PBC, all relevant information would be available to make decisions. The Delegation thanked the Director General for inclusion of the Global Congress issue in the Advisory Committee. It added that, in view of the difficulties experienced in trying to inform their colleagues in Brussels and Paris of the events taking place on mutual issues, the Delegation said it would be extremely helpful to have a forum in WIPO that they could also come and attend.

273. The Delegation of France wished to be very clear as to the use of the 550,000 Swiss francs and that 100,000 Swiss francs should be reserved for Program 8, as requested by the Delegation of Pakistan. The Delegation wished to particularly support the Director General in his comment that Budget Committee was not an Audit Committee. Regarding the intervention of India, the Delegation did not think that PBC should play the role of the Audit Committee and assumed that PBC had a specific task to carry out. The Delegation did not share Egypt's view either about the need for longer meetings or the need for more meetings of this Committee. The Delegation did not feel being put under any pressure, as there had been an informal meeting in July, thus plenty of time to consider the budget. The Delegation requested that these remarks be put on record.

274. The Delegation of Brazil supported the opinions expressed by the Delegations of India, Egypt and South Africa on the question of time. It remarked that when the issue was budget and money, it should be expected that there would be a huge fight and the discussion long. The Delegation said that although it was grateful for all the informal meetings, the present meeting was the first time that Member States received concrete answers to the requests that had been made, especially in terms of figures.

275. The Delegation of India responded to comments made regarding the audit role played by delegations. It said that its two particular queries on "Other" had now been accepted as a very pertinent question. The second query was on the events and the cost borne towards them by that the Secretariat, information on one of which had not yet been given. The reason why the Delegation had queried this expenditure was that when delegations asked for 1 million Swiss francs for a programmatic activity it was difficult to find the money, while for the events (which are non-programmatic events with no concrete expected outcome), the expenditure was also almost 1 million Swiss Francs. The Delegation said that it was a budgetary question related to the present discussion. It assured other delegation that it did not intend to perform any audit. On the issue of pressure, the Delegation believed that the delegations feeling the pressure were the ones that had suggested changes and were fighting for them. The Delegation affirmed that it did feel under pressure and that was why it had



made the institutional changes proposal to either have more meetings or take the proposal of the Audit Committee and set up a smaller body.

276. In response to the question from the Netherlands regarding the time-lag, the Director General said that the proposal made was not definitive and that consultations should continue to find the solution to this recurrent problem. The mechanism that seemed to be the most appropriate, in the Secretariat's view, was to ensure that the development agenda projects were allocated in-advance to the programs that would have responsibility for their management, under the coordination of the Development Agenda Coordination Division (DACD), and were budgeted in those programs, rather than from the unallocated. The Secretariat's suggestion was to mainstream these projects into the programs. On PBC meetings and the audit Committee's suggestion, the Director General said that it was a very good suggestion and that personally he would welcome it very much. On this occasion, the Director General reminded the delegations that WIPO did not have an Executive Committee, the fact which contributed to the present difficulties. He recalled that the subject had been discussed at length in a process of constitutional reform that had taken place in 1998, 1999 and 2000, which had led to some amendments to the constitution. There had been a lengthy discussion about the role of the Coordination Committee and whether that ought to or could be an Executive Committee with functions. Many other organizations had an Executive Board or an Executive Committee that met every two months intervals. Establishment of such committee would ensure a more formal and frequent communication and a flow of information from the Secretariat to the Member States. The Director General added that this was a very good suggestion on the part of the Audit Committee, however, it was up to the Member States to decide on the body they wanted. The Director General further recalled that, the major difficulty encountered when this subject was extensively discussed within a Working Group on Constitutional Reform was how to choose a limited membership for such a body; how to come up with a formula that was going to ensure representivity on the one hand, and the limitation in membership on the other hand. In response to the question from India, the Director General said he had already provided the figure in question (July conference cost). With regard to the 550,000 Swiss francs figure (a question from France), the Director General recalled that his suggestion had been, in order to make the bigger impact, to put the entire amount in Program 30 (SMEs). This suggestion seemed to have been approved by the Delegation of Pakistan, which also requested that 100,000 Swiss francs of that be given to Program 8.

277. The Delegation of Pakistan responded that the original proposal for the allocation to three Programs should be maintained.

278. The Director General thus confirmed that the distribution of 550,000 Swiss francs amongst the various Programs, as was originally proposed, would be maintained.

279. The Chair proposed to examine the text of the conclusions on this agenda item.

280. The Delegation of Senegal was in favor of the discussion on SMEs and other aspects of the budget.

281. The Delegation of India clarified that it had asked for information the IP and Public Policy which was mandated by Member States in the SCP and the IP and development event which had held for a few countries. It added that it did not need the answer to this question anymore.

282. The Secretariat (the Controller) read out the proposed paragraphs of the conclusions:

“5.1 The PBC recommended to the Assemblies of the Member States of WIPO and of the Unions, each, as far as it is concerned, the approval of the proposed Program and Budget for the 2010-2011 biennium (document WO/PBC/14/4) with the following agreed changes:

“ (i) The amendment of program narratives as requested formally by delegations in respect of Programs 5, 8, 9, 14, 16, 17, 18, 20, 27, and 30;

“ (ii) An increase in non-personnel resources for Program 8 of Swiss Francs 100,000, for Program 9 of Swiss Francs 220,000, for Program 15 of Swiss Francs 130,000, and for Program 30 of a Swiss Francs 100,000, with a corresponding decrease in unallocated resources totaling Swiss Francs 550,000.

“(iii) A provisional earmarking of Swiss Francs 2.3 million to fund the start-up costs of development agenda projects, final approval of the proposals by the CDIP, will be submitted to the next PBC.

“6. The PBC requested the Secretariat to undertake a review of the budgetary process applied to projects proposed for the implementation of development agenda recommendations with a view to submitting the conclusions of such review to the next regular session of the Program and Budget Committee.”

283. The Chair (after the break) proposed the adoption of the decision paragraph put before the delegations.

284. The Delegation of the United States of America asked, based on the conversations it had had during the break, whether 130,000 Swiss francs was needed for Program 15 and whether funds for Program 30 could be increased instead i.e., up to 230,000 Swiss francs.

285. The Delegation of South Africa requested clarification on paragraph (iii), which said “...final approval of the proposals by the CDIP will be submitted to the next session of the PBC.”, as to whether there was a provisional earmarking of 2.3 million Swiss francs at this stage for the November and April approved projects or whether these projects would need to wait for the next PBC’s approval. This was the Delegation’s understanding and the concern raised. It suggested rewording of the sentence, since the way it read at present suggested that that implementation could not take place until the PBC approved the proposals.

286. The Delegation of Egypt endorsed the proposal made by the United States to move the funds from the Program 15 to Program 30.

287. The Delegation of the Netherlands requested to replace the word “conclusions” with “recommendations” in paragraph 6 which said “.....with a view to submitting the conclusions of such review to the next regular session of the Program and Budget Committee.”

288. The Delegation of Germany endorsed the proposal by the Delegation of the Netherlands and also suggested to make the second line of paragraph 6 (budgetary process applied to projects proposed) more accurate by inserting new wording. The second line would therefore read “.....budgetary process applied to projects proposed by the CDIP for the implementation

of development agenda recommendations”. With regard to paragraph 5 (iii), the Delegation wished to record its understanding that it meant that, the implementation could started since the first line read that those were start-up costs.

289. The delegation of Pakistan the proposed to add wording on coordination mechanism to point 5 (iii), to read: “ the start-up costs of development agenda projects, and coordination mechanism, final approval of the proposals by the CDIP, will be submitted to the next PBC.” Regarding the proposal made by the Delegation of the United States of America, the Delegation asked the Secretariat to provide the details for Program 15 (once it had allocated 130,000 Swiss francs suggested to be shifted to Program 30), i.e., what this amount was meant for.

290. The Delegation of India asked for clarification on the point raised by the Delegation of Pakistan. The Delegation added, however, that, in principle, it supported the moving this amount out of program 15 to program 30. The Delegation also supported the proposal made by the Delegation of Pakistan on point 5 (iii) to include a phrase on the development agenda monitoring mechanism.

291. The Delegation of Brazil endorsed the proposal made by the Delegation of the United States on shifting funds and the language change proposed by the Delegation of Pakistan.

292. The Delegation of Germany wished to make a caveat on the proposal made by the Delegation of Pakistan regarding paragraph 5 (iii). The Delegation did not find the inclusion of “coordination mechanism” appropriate there. The Delegation did not think that the PBC was the appropriate body to discuss this question and therefore it should not be mentioned there, particularly since the Director General had pointed out that if the CDIP should decide on a coordination mechanism that would entail financial cost. The Delegation added that Group B’s position was different, but if such a decision would be taken, then there would be 400,000 Swiss francs that could be used for the initial financing. On the second thought, the Delegation would consider that if the CDIP reached conclusion on such a mechanism then maybe it would have to be formalized by the General Assembly. The Delegation said that although it did not find the mention of coordination mechanism appropriate in this paragraph, it would not exclude it.

293. The Delegation of Pakistan responded to the Delegation of Germany’s concerns by suggesting a different wording: “ development agenda projects and coordination mechanism, as approved by the next CDIP ”, which would reflected the discussion had. Should the delegations not wish to discuss this issue there because it would be finally discussed at the next session of the CDIP, then the text should reflect this fact.

294. The delegation of Sri Lanka supported opinions expressed by the Delegations of Pakistan and India and Brazil regarding the coordination mechanism and considered that the time had come to include the notion of development agenda coordination into the Program and Budget documents. It added that it was still not clear on final approval of the proposals by the CDIP. The Delegation suggested including a line saying that the Program and Budget would be allocating an earmarked allocation for the development agenda projects in future. In that way Member States would not have to have the same practice of requesting funds from here and there each year.

295. The Secretariat responded to the question raised by Pakistan regarding Program 15. It said that there were a lot of requests for modernization assistance by the different countries,

which were not always fully replied to. The amount proposed to be given to Program 15 would have been for the provision of automation systems for administration, training and knowledge transfer to four or five IP institutions, and for linking national patent database of two or three IP offices using WIPO automation system and for enabling these IP offices to electronically download international marks designed for them. The Secretariat read the decision paragraph modified according to Member States comments.

“5.1 The Program and Budget Committee recommends to the Assemblies of the Member States of WIPO and of the Unions, each as far as it is concerned, the approval of the proposed Program and Budget for the 2010-2011 biennium (document WO/PBC/14/4) with the following agreed changes:

“(i) The amendment of program narratives as requested formally by delegations in respect of Programs 5, 8, 9, 14, 16, 17, 18, 20, 27, and 30;

“(ii) An increase in non-personnel resources for Program 8 of Swiss Francs 100,000, for Program 9 of Swiss Francs 220,000, and for Program 30 of Swiss Francs 230,000, with a corresponding decrease in unallocated resources totaling Swiss Francs 550,000.

“(iii) A provisional earmarking of Swiss Francs 2.3 million to fund the start-up costs and also immediate implementation of development agenda projects, and coordination mechanisms as approved by CDIP, final approval of the proposals by the CDIP, will be submitted to the next session of the PBC.

“5.2 The Program and Budget Committee requests the Secretariat to undertake a review of the budgetary process applied to projects proposed by the CDIP for the implementation of development agenda recommendations, with a view to submitting the recommendations of such review to the next regular session of the Program and Budget Committee.”

296. In response to a question from the Delegation of the Netherlands, the Chairman said that the review of the recommendation for the implementation of Development Agenda recommendations would take place during the next regular session of the PBC.

297. Regarding point 5 (iii), the Delegation of Pakistan asked if the final approval of the proposals would be given by the CDIP. If so, the Delegation asked if the final approval of budgetary allocations for the proposals should also be made by the CDIP. The Delegation sought clarification concerning the role of the PBC in reviewing, respectively, the proposals made by the CDIP and the budgetary allocation for the Development Agenda recommendations.

298. The Delegation of the United Kingdom agreed with the changes made to point 5 (ii) and remarked that, although its capital was open to seeking solutions, it would not be too flexible on the subject of coordination mechanism, as this had not been agreed on yet.

299. The Delegation of South Africa said that the Delegation of Pakistan had just reiterated its concern with regard to the second sentence. However, it thought that it could accept the insertion. It stated that it was in accordance with the immediate implementation, as well as the reference to the coordination mechanism. In view of what Pakistan had said, the Delegation suggested deletion of the second sentence, which created confusion as to where the proposal was to be approved first in terms of budgetary allocations. The Delegation stated

that the PBC ought to note that there was an earmarking of 2.3 million Swiss francs to start up and implement Development Agenda projects and the coordination mechanism.

300. The Delegation of Egypt supported the proposal by the Delegation of Pakistan and added that it was flexible on what language could be used, as long as there was a reference to the Development Agenda projects and the coordination mechanism that would be subject to the approval of the CDIP. It thought that the PBC had come a long way in discussing the issue and added that it would find it discouraging to restart the debate. Nevertheless, if the PBC had to restart the debate the delegation would do so.

301. The Delegation of Germany addressed the concerns raised by South Africa regarding point 5(iii) and wondered whether the amendment suggested from Pakistan could be built on. The Delegation opined that the idea mentioned in the sentence should be captured, because it was actually one of the major points of Members interventions made in the last two days. Pertaining to the coordination mechanism; the delegation said that it was a very delicate issue, but it thought that it would be as well if it were highlighted, as remarked by the United Kingdom. The Delegation wondered if it be better for the PBC to leave that point aside, since it had triggered the discussions where they did not belong. The Delegation noted that if words “as approved by the CDIP” were added, at least in terms of the coordination mechanism, there would also a need to be mention of an approval by the General Assembly. Therefore, it noted that if the PBC was to mention the coordination mechanism, it would actually need to mention two approvals.

302. The Delegation of Switzerland supported the statements made by the United Kingdom and Germany, which reflected the Delegation’s own concerns. It remarked that the elements proposed were right and that the PBC now had a good basis for a text that could be adopted.

303. The Delegation of Pakistan added that the suggestions it had made reflected what was being discussed since that morning in the presence of the Director General regarding the Development Agenda projects and coordination mechanism. The Delegation added that it would not mind changing the language, as proposed by Egypt; to say that the projects and coordination mechanisms would be subject to the approval by the CDIP. The Delegations emphasized that this was a factual statement and wished to maintain its position on including the phrase on the coordination mechanism.

304. The Delegation of the United States of America said that it would not touch on the coordination mechanism issue yet. However, it said that with respect to the last sentence on 5(iii); it supported the statement made by Germany with regard to maintaining that last sentence. It affirmed that not only did it want to ensure that a final approval was found in the PBC, but there was also a certain issue due to the fact that the earmarking was only dealing with hypothetical numbers at the moment. The Delegation suggested the following wording: “final budget presentation for projects approved by the CDIP that would be submitted to the next session of the Program and Budget Committee”. The Delegation noted that hopefully, the sentence proposed would address both issues.

305. The Delegation of Egypt felt that the PBC was on the verge of agreement and thought that there was a need to be rational in the decision that the PBC would take. It recalled that there were two proposals on the coordination mechanism. One was resource neutral and the other entailed resource allocations. Therefore, the Delegation did not feel that the PBC was being objective by not considering any mention of a possibility of funding, because that meant that the PBC was initially favoring the proposal that was resource neutral.

Nevertheless, it thought that the PBC needed to be objective in specifying that funds would be available for a coordination mechanism that would be agreed upon by the Member States, should funds be needed. The Delegation proposed that this be added. The Delegation underlined that not to mention what had been said meant being biased towards one of the proposals presented to the CDIP. Its solution could not be found at this moment, the Delegation suggested to move to other agenda items and revisit this item or even keep it open for the Assemblies.

306. The Delegation of South Africa considered the proposal made by Pakistan on the Development Agenda projects and the coordination mechanism acceptable and thought that it should meet the concerns raised by Germany as well. The Delegation's said that its concerns were actually raised again when Germany had said that it needed a dual approval process since the Delegation had previously asked that there be no delay in the implementation due to the PBC approval. The Delegation remarked that the PBC was now saying that reference to coordination mechanism could not be inserted, even though it was proposed to say that it would be subject to the approval of any decision that would be made by the CDIP. The Delegation highlighted that the proposal was not saying that the PBC was agreeing to a coordination mechanism, because the PBC did not have the mandate to do so. Thus, the Delegation did not see why that was also an issue.

307. The Delegation of India thought that the discussion was aimed at finding a solution to the budgetary lag with regard to the Development Agenda implementation. The Director General had also participated actively in that dialogue and the Delegation thought that the PBC had reached a consensus on that issue. Thus, it did not understand why the PBC was re-opening the consensus that had already been there. It added that the language could always be fine-tuned, that it supported the suggestions made as long as the basic consensus that had been reached earlier that morning was reflected in the document.

308. The Delegation of Iran (the Islamic Republic of) supported the proposal of Pakistan and emphasized that without the inclusion of the proposed language, the Delegation was not in a position to approve the text.

309. The Secretariat (the Controller) proposed to take on board all the proposals by modifying the sub-paragraph 5(iii) to read: "A provisional earmarking of 2.3 million Swiss francs to fund the starting cost and also immediate implementation of Development Agenda projects and coordination mechanism subject to the approval by the CDIP and the General Assembly. Final budgetary approval of the proposals endorsed by the CDIP will be submitted to the next session of the PBC". The Secretariat noted that it did not see any further remarks to any other paragraphs. Therefore, the Secretariat submitted the amended decision paragraph and recommendation for the PBC's approval.

310. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, the approval of the proposed Program and Budget for the 2010/11 Biennium (WO/PBC/14/4), with the following agreed changes:

- (i) The amendment of program narratives, as requested formally by Delegations, in respect of Programs 5, 8, 9, 14, 16, 17, 18, 20, 27 and 30;
- (ii) An increase in non-personnel resources for Program 8 of 100,000 Swiss francs; for Program 9 of 220,000 Swiss francs; and for Program 30 of

230,000 Swiss francs, with a corresponding decrease in Unallocated resources totaling 550,000 Swiss francs; and

- (iii) A provisional earmarking of 2.3 million Swiss francs to fund the start-up costs and also immediate implementation of Development Agenda projects and coordination mechanism, subject to the approval by the CDIP and the General Assembly. Final budgetary approval of the proposals endorsed by the CDIP will be submitted to the next session of the Program and Budget Committee.

311. The Program and Budget Committee requested the Secretariat to undertake a review of the budgetary process applied to projects proposed by the CDIP for the implementation of Development Agenda recommendations, with a view to submitting the recommendations of such review to the next regular session of the Program and Budget Committee.

#### AGENDA ITEM 6 PROCEDURE FOR THE SELECTION OF THE EXTERNAL AUDITOR

312. Discussions were based on document WO/PBC/14/5.

313. The Chair welcomed delegations to the resumed meeting of the PBC and reminded the Membership that there were 10 outstanding agenda items to be dealt with before the closing of the session.

314. The Secretariat (the Controller) introduced document WO/PBC/14/5 containing proposal on the process for the selection of the External Auditor. The Secretariat remarked that since the 2007 Assemblies, delegations supported the idea of establishing a mechanism for the selection of the External Auditor and for the replacement of the current External Auditor, whose mandate would end in 2011. The Secretariat reminded the PBC that Financial Regulation 8.1 specified that the General Assembly appointed the External Auditor who would be the Auditor General, or officer holding the equivalent title of a Member state. Regulation 8.2 addressed the question of tenure of office and stated that “the External Auditor shall be appointed for a term of office of 6 years non-renewable consecutively”. The Secretariat informed the PBC that the current Auditor from the Swiss Confederation will have concluded his mandate at the end of the financial year 2011, and therefore would have to be replaced from 2012.

315. The Secretariat outlined the proposed process for the selection of the External Auditor; noting that the Secretariat had considered, *inter alia*, the practice in other international organizations. The Secretariat said that there was no standard or uniform policy within the United Nations, but nonetheless the Secretariat had looked at certain organizations which were close to WIPO in terms of size and the kind of activities they engaged in. The Secretariat considered the practice in the WHO, the ILO and the FAO in Rome. The proposed process included several phases. First, Member States would be invited to submit candidatures for the post of External Auditor. The Secretariat would set up a selection panel and, in doing that, would ask the Coordinators of the seven Regional Groups of the Member States to participate. To avoid any potential conflict of interest, if the proposed candidature would be received from a coordinator country; that coordinator would have to be absent during the consideration of the candidature in question and be replaced by another

representative from the same group of countries. In the second phase, described as “Invitation phase”, the Secretariat would issue a tender for a detailed application. The details of that procedure were described in paragraph 7 of the document. Following the second phase, all candidates would be invited to attend a meeting, in the course of which the representative of the Director General would answer any questions and requests for information that the candidates could have. Paragraph 9 of the document listed the required content of proposals from candidates. Upon receipt, those proposals would be evaluated. With regards to the evaluation process, the Secretariat explained that the Internal Audit Division and the Finance Services would work on the selection criteria. That list would then be submitted to the Selection Panel for approval, following which the IAOD and the Finance Services would carry a preliminary technical evaluation. The results of the evaluation would be submitted to the Selection Panel. The Selection Panel would draw up a list of candidates who would then be invited to make an oral presentation to the Panel. The process would conclude with a proposal made by the Selection Panel to the PBC.

316. Regarding the time-table for the selection process, the Secretariat referred the delegations to paragraph 18 of the document, which said that: “the process of selection should commence during the first year of the biennium preceding the first biennium to which the appointment relates”, meaning that the Secretariat was to appoint the External Auditor for 2012 and therefore, the preceding biennium was 2010/11. Therefore, the selection process had to start in the course of 2010. The Secretariat said that the PBC was invited to recommend the Assemblies of the Member States to approve the procedure of selection of the External Auditor, as well as to establish the Selection Panel by March 2010 and to authorize the Secretariat to launch the selection process.

317. The Delegation of the United Kingdom welcomed the analysis of the best practice across the UN on this matter and affirmed that they fully agreed that the Coordinators of the seven regional groups acted as members of the Selection Panel. The Delegation fully agreed with the proposed timetable. However, in terms of the technical evaluation of proposals received by WIPO, it wished to see the Audit Committee involved, apart from IAOD and Finance Services, in (a) preparing the list of selection criteria, and (b) carrying out the preliminary technical evaluation. The delegation said that the core of the Audit Committee’s role was to scrutinize and advise on finance and corporate governance issues. The Delegation underlined that effective triangulation between the External Audit, the Internal Audit and the Audit Committee bodies was essential in adding value to the Organization and in ensuring WIPO had proper checks and balances.

318. The Delegation of the Netherlands affirmed that it broadly agreed to the proposed selection process. However, in a constructive spirit the Delegation wished to make two suggestions. With regard to paragraph 4, the Delegation suggested that the invitations be sent to all Member States calling for nominations for the External Auditor be accompanied by part of the information mentioned in paragraph 7(b), in particular, the Terms of Reference of the External Auditor and the format of the required audit opinion. In the Delegations’ view this would help potentially interested nominees to have a clear idea what was expected from them. Pertaining to the proposal in paragraph 14, the Delegation suggested that the selection criteria (with their appropriate weightings) be prepared and approved before, and not after, the proposals of nominees were received, so as to promote the impartiality of the selection process. It suggested that this could be indicated, by moving paragraph 14 before the current paragraph 10, which would make it clear that the selection criteria would be approved before the opening of the interest of nominees.



319. The Delegation of India welcomed the proposed mechanism. It affirmed that it supported the suggestion made by the Delegation of the United Kingdom to involve the Audit Committee in that process. It underlined that it would be in the interest of the triangular cooperation.

320. The Secretariat responded that the comments regarding the selection criteria and the placing of paragraph 14 before paragraph 10 would be duly taken into account. Concerning sending out the Terms of Reference and the audit opinion referred to in paragraph 7(b), the Secretariat noted that it would take that suggestion into account as well. Regarding the participation of the Audit Committee in the selection criteria, from the Secretariat's point of view, there would be no difficulty to accommodate this request. It remarked, however, that the Chairman of the Audit Committee should take the responsibility of deciding whether or not that was appropriate. Therefore, it would be appreciated if the Chairman of the Audit Committee took the floor to confirm acceptance of that proposal.

321. The Audit Committee Chair confirmed that the Audit Committee was willing to fulfill the request of the Member States and to participate in the selection process.

322. The Chair proposed to adopt the recommendation appearing in paragraph 21 of the document, on the understanding that the amendments suggested by the Delegations of the Netherlands and the United Kingdom would be taken into account. It was so agreed.

323. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, to:

- (i) approve the procedure for selection of the External Auditor;
- (ii) establish the Selection Panel by March 2010;
- (iii) authorize the Secretariat to launch the selection process.

#### ITEM 7 OF THE AGENDA REPORT BY THE CHAIR OF THE WIPO AUDIT COMMITTEE

324. The Chairman of the Audit Committee, Pieter Zevenbergen, and the Vice-Chair, Khalil Issa Othman presented oral report on this agenda item.

325. The Chair presented the report on the Audit Committee's 12th to 14th meetings contained in documents WO/AC/12/2, WO/AC/13/2, and WO/AC/14/2 respectively. The Vice-Chair introduced the document WO/GA/38/2 prepared for submission to the General Assembly.

326. The Chair of the Audit Committee made the following statement.

“ I am pleased to introduce, on behalf of the WIPO Audit Committee (AC), the Reports of its twelfth and thirteen and fourteenth meetings held in March, June and August 2009, documents WO/AC12/2, WO/AC/13/2 and WO/AC/14/2, which I understand have been made available to you, though they are not mentioned in the Agenda dated July 30, 2009.

I will begin with the **Review of the Strategic Realignment Program (SRP)**

The AC noted that, in the view of the Director General, the SRP would take two to three years to complete and that good progress had been made on the selection process for senior posts that had been advertised.

The AC was informed on three main areas in the SRP: communications, the staff performance appraisal system and staff contractual arrangements.

The AC drew the attention of the Director General on its prior recommendations:

- to develop a comprehensive integrated program for organizational improvement and it be developed in a SMART C way.

We also underlined the prior recommendation for the preparation a plan for the implementation of the program showing the organizational and resourcing requirements.

The AC agreed on progress reporting on the SRP twice a year. The first report was received in June 2009, and was discussed by the AC. Some progress reports on specific issues were also, as agreed with the Director General, discussed by the AC with the respective managers

The AC discussed the first half year report and welcomed the information on the progress made so far.

The AC missed so far the road map for implementation, showing a common timeline, the interrelations of the component modules, the organization and resourcing requirements. In that respect, the information provided was not sufficient enough to monitor and assess the action taken by the Secretariat.

The AC recognized, of course, the difficulties associated with programs for organizational improvement.

Such programs are indeed complex and likely to extend over a period of time.

Being SMART – that is, Specific, Measurable, Attainable, Realistic, Timely and Consistent – will help to reduce the complexity of such programs. There is no need to underline that the AC had previously recommended this and that the WIPO General Assembly has endorsed this line of action.

The Assembly of the Coordination Committee, at its June meeting, when a proposal on the Voluntary Separation Program (VSP) reduction of the number of staff members was presented, requested the AC to oversee the implementation of that process.

The AC wishes to remark that there is a possibility until the 30<sup>th</sup> of September 2009 for staff members to apply. It is expected that most of the staff members who want to join the program will apply a few days before the deadline. That means that the AC will undertake a post facto review of the implementation of the program.

We would like to inform you that the program appeared to be well designed. There is however one point we would like to underline and that is that criteria that will be the

basis for the analysis of the applications of the VSP evaluation group be drafted and published as soon as possible to ensure consistent assessment of the applications.

In the field of **the Revision of the Staff Regulations and Staff Rules**, the AC was pleased to see the progress made in addressing such an important issue, which was long overdue. The AC will continue to overview the revision, and expects to be kept informed on this matter. We recommended that a comprehensive plan be made highlighting among others, the risks such a large project was expected to be confronted with.

The AC recommended also that further consultations should be held with the Staff Council especially in the field of Staff selection procedures in order to ensure full staff support to the procedures to be adopted.

In the view of the importance of the reform for the well being and conditions of the service by the staff the AC recommended that progress reports of the project be accompanied by an extensive information strategy for all WIPO Staff.

On the topic of the **New Construction Project**, the AC was briefed on developments during both meetings.

More, in particular, the AC focused on the risk connected with this project.

The AC noted that, during the process of construction, some related projects part of the plan had to be considered, such as the UN-HMOSS Security requirements, the installation of the IP telephony system. The AC concluded that these new elements so far have not had a negative influence on the New Construction Project as such the additional costs appear justified in view of the results to be achieved.

The New Construction Project, as such, has remained on track for October 2010 completion.

The AC also discussed the financing of the New Construction Project, and found that the financing of the New Construction Project so far has been developed in a profitable way. Financing with WIPO's own money, with Reserves and profits on the years as a source, is cheaper than bank loans, in that not only interest will have to be paid but also the loans have to be amortized as well.

The AC was also informed on the proposals for the New Conference Hall. We noted that so far the Secretariat had not yet looked at the cost consequences of the project. The AC concluded that (document WO/AC/14/2, paragraph 23 (c)):

*“(c) Whereas it was recognized that there were advantages in WIPO committing now to undertaking the construction of the New Conference Hall in terms of continuity of management, continuity of the Pilot, and hence cost advantages of integrating the project with the existing new construction, at a time when the construction industry was short of work, it was not clear that due account had been taken of the impact of committing to constructing a New Conference Hall at the time when the private sector, the primary funding source for WIPO, was experiencing a significant economic recession.”*

On one side it was recognized that there were advantages in WIPO committing now to undertaking the construction of the New Conference Hall in terms of continuity of management.

The AC has noted with appreciation the Secretariat's development of a policy in the field of the new construction projects.

In the field of **Internal Control**, I would like to ask your attention for three topics:

1. IPSAS
2. the Internal Audit and Oversight Division; and,
3. Follow-up on the Status of Oversight Recommendations

1. IPSAS

The Secretariat informed the AC that the implementation of IPAS was still scheduled for January 2010.

The AC noted with appreciation the quality of the first draft of the FRR- IPSAS implementation project initiation document.

The implementation of IPSAS is not a stand alone process. IPSAS is closely related and interdependent with the enterprise resource planning system project, and a project for the revision to the staff regulations and rules, among others. The AC will continue to follow up the implementation of IPSAS, also in relation with other internal processes.

The project assumptions and organizational structure, organizational change management, Quality responsibilities, time frame estimates, project control and risk management showed a realistic approach in this field to the extent the information is provided.

In this area the AC recommended and repeated in June that a detailed implementation plan, including a risk register for the ERP/IPSAS project be maintained and be submitted to the AC at all of its meeting, it should incorporate the information on the progress of the ERP project currently reported separately, which was not yet submitted.

2. Follow up on the list of Oversight Recommendations

The AC is not at all satisfied with the way of handling the follow up of internal and external recommendations, for example, of the External Auditor, the internal auditor, the UN Inspection and oversight bodies, and the AC.

The AC had to conclude, during its 13th meeting, that there was no evidence of any material progress made by IAOD since the AC recommended, at its 12<sup>th</sup> meeting, that in this field, a clear and transparent policy had to be developed, and that reporting should be more transparent and the acting agent should be more accountable.

Those aims can be reached by adopting a "comply or explain" policy. Transparency can be developed by taking a reporting format used by the Office of

Internal Oversight of the UN. To be accountable can be reached by prioritizing the differences in priority.

The AC will continue to monitor this program.

### 3. Internal Audit and Oversight Division

In the field of the Internal Oversight and Audit Division, the AC noted that there was no material progress in the prioritization and reporting on IAOD activities.

In the field of investigation, the AC noted that there was no investigation procedure manual ready. The AC also noted that the lack of right procedures puts the Organization and individuals at risk. At 14<sup>th</sup> meeting of the AC (document WO/AC/14/2, paragraph 31):

*“31. The Committee was dismayed to note that these recommendations were not addressed and accordingly reiterated its position. It expects to be updated on this matter by the Secretariat at its next meeting in November 2009.”*

In the field of **Procurement, and of Travel and Mission Support in WIPO**, the AC reviewed Audit reports of IAOD. We recommended that Memorandum of Understanding's and Service Delivery Agreement's with the International Computing Center be consistent with internal control requirements. The AC noted that there no policy on compliance, and recommended that the Human Resources Management Division and the Office of the Legal Counsel, define procedures that would apply in case of non-compliance with Office Instructions and Staff Regulations and Staff Rules.

The AC noted with interest that IAOD will undertake a gap assessment study on Internal Control within WIPO. The AC would like to underline that defining a gap; reference should be made to standards for internal control. In this particular assessment no specific reference was made to Internal Control standards as for example recently have been defined by INTOSAI, in the publication “Guidelines, for Internal Control Standards for the Public Sector”.

In that publication Internal Control Standards describe and recognize the inter-related components of Internal Control such as:

- a) control environmentally risks assessments, control activities, information and communication and monitoring activities in order to organize an integral process that is affected by an entity's management and personnel and is designated to address risks and to provide reasonable assurance that in pursuit of the entity's mission the following aims are met.
- b) Executing orderly, ethnically, economical, efficient and effective operations;
- c) Fulfilling accountability obligations;
- d) Complying with applicable laws, rules and regulations; and
- e) Safeguarding reserves against loss, misuse and damage.

The AC will continue to overview this item.

The AC met with the WIPO Ombudsman and found out that about 250 staff members consulted the Ombudsman the last three years.

The AC also noted that there was no regular public reporting line after a certain period. In that respect the AC recommended that following the example of other organizations WIPO should issue a circular to the Staff, summarizing existing conflicts resolutions procedures and made public on a regular basis the annual report of the Ombudsman.

The AC also undertook an assessment of the Work and Operations of the WIPO AC.

I would like your permission to handover the floor to Mr. Khalil Issa Othman, Chair of the sub-committee of the AC that will brief you on the “Assessment of the Work and Operation of the AC.”

327. The Vice-Chair of the Audit Committee made the following statement regarding Assessment of Work and the Operations of the WIPO Audit Committee (document WO/GA/38/2 )

“The WIPO Audit Committee (“AC”) decided in December 2008 to carry out an assessment of its work and operations to cover the period January 2006 - June 2009 (2 and half years) to be carried out in 2009. For this purpose a subcommittee was established in March 2009 to meet outside regular sessions of the Audit Committee in close consultation with all members. The final draft was discussed and cleared by the Audit Committee in its 14<sup>th</sup> meeting in August 18, 2009, and sent on the same day to the Member States and the Secretariat.

#### Methodology

Two Survey Tables sent to 21 UN Organization for validation and updating.

- (i) Appendix I on Oversight/Audit in the United Nations System Organization validated and updated by 12 Organizations; and
- (ii) Appendix II on Governance validated by 10

Out of the 21 only 15 has or in the process of having oversight/audit committees

#### Questionnaires Appendixes

Review of the Performance of the Audit Committee against Terms of References (TORs) sent to (Chairs and Vice-Chairs of the General Assembly, Coordination Committee, Program and Budget Committee, Regional Group Coordinators, Director General and Officials of the Secretariat, External and Internal Auditors and Members of the AC.

1. National Audit Office (NAO) on self assessment
2. Deloitte & Touche (D&T)

Responses to Questionnaire were limited, (See Table 1 paragraph 7 page 3) but benefited from exchange of views with Regional Group Coordinators and the Vice

Chairs of the PBC on 17 June 2009. They also benefitted from further research on the work of the AC and experience gained.

The result is the report before you. And I suggest that it should be read as a whole: it is brief and condensed and its parts are interrelated and causal.

Having talked about why and how we conducted this exercise I now turn to the body of the report. In way of introducing the report I limit myself to the main features or the messages we want to convey and end our conclusions and recommendations.

Our first message and in a form of a question form is: “Is WIPO in Need of an Audit Committee, An external Oversight body?”

The short answer is “Yes” but let me explain:

Let us look back at the situation when the AC was established in September 2005:

- (i) Deficiencies in internal control and more specifically IAOD;
- (ii) Member States concerns about managerial deficiencies pursuant the JIU report;
- (iii) New trend in UN organizations for creating such committees

Hence the establishment of the WIPO Audit Committee

But then “How did the Audit Committee fair during the last 3 and half years?”(see Section II, III and IV).

We started with certain constrains and difficulties (paragraph 13, pages 4 and 5). These difficulties included:

- a. New 9 members;
- b. Lack of knowledge of WIPO;
- c. Lack of oversight culture in the Organization;
- d. Limited interaction with Member States; and
- e. Limited assistance from the Secretariat.

Despite those constrains and difficulties the AC was able to carry out the tasks entrusted to it in effective manner. Its work, performance and outcomes are described in Section II under Performance highlight paragraphs 14 – 26 (Tables 2 and 3) and outcomes paragraphs 27-28.

Suffice to refer to our work on the New Construction Project (NCP), Desk to Desk (D2D) review, Internal Audit Oversight Division (IAOD) and other items, the recommendations on which were appreciated and accepted by Member States and in several cases, although not evenly, implemented by the Secretariat.

- a. On outcomes we may mention:
- b. Oversaw the finalization of TOR for PriceWaterhouseCoopers;
- c. Introduced the concept of risk register in the NCP;
- d. Raised awareness of the lack of culture of oversight; and
- e. Lack of system of responsibility and accountability.

Also Section IV “Review of the Performance of the WIPO Audit Committee Against its Terms of References”(Table 5) gives more specific observation and responses.

For all the above reasons we reached our first conclusion paragraph 71, page 21:

*“There is an agreement among all parties (Member States, Secretariat, and AC members) that the continuation of an external independent and advisory Oversight/Audit Committee in WIPO is in the interest of the Organization and is needed”*

Our first message or question was: “Is WIPO in Need of an Oversight/Audit Committee?”

Our second message is about “The Title of the Audit Committee”.

I may put our second question as: “What is in a Name?”

A look at the TORs of the AC and the work and reviews carried out by it clearly shows that the scope is not limited to “audit”. We do not deal with accounts and financial audit that being the prerogative of the External Auditor. Furthermore we have been entrusted to oversee and review major projects NCP & D2D and most recently the “Implementation of the Voluntary Separation Scheme”. The WIPO Audit Committee is in fact (and also within the context of the UN system Organizations, Appendix I) an external, independent, review and advisory oversight body (I refer you to Section III “Governance and Oversight Structure in the UN System”).

Hence our conclusion and recommendation paragraphs 71 and 72 page 21

*“The word “Audit” does not encompass the scope of functions carried out by internal or external oversight/audit committees In line with other UN organizations, the title of the present WIPO AC should be changed to reflect such reality. It is recommended that Member States consider that the title of the WIPO Audit Committee be changed to the WIPO Independent Advisory Oversight Committee (IAOC)”*.

Our third message and question is: “How to Enhance the Efficiency, Effectiveness and the Role of the WIPO Audit Committee?”

In this regard we looked at:

- a. Interaction with Member States and the governance structure;
- b. Interaction with the Secretariat;
- c. Interaction with other oversight bodies the Internal and External Auditors; and
- d. Composition and membership of the AC.

In regard to point (a) “Interaction with Member States”, the present situation is:

- (i) The committee meets quarterly and issues reports and recommendations;
- (ii) The PBC to whom the Committee reports meets once a year;
- (iii) The Table 4 page 8 shows the gap between the date of issuance of the AC



reports and the date of review, if any, by the PBC. This creates a problem to which I will revert later.

An examination of the Governance structure in the UN system Organizations (See Section III & Appendix II) show that other UN organizations besides having a GA or Conference (membership of all member States) and medium governing bodies of a membership between say 36 to 50, they also have a smaller more functional finance, administration, and program committees typically composed of between 12 and 16 members meeting several times a year.

In WIPO we have the GA, the Coordination Committee (83) and the PBC (54).

We therefore concluded that there is a relative weakness of the governance structure within WIPO compared with other UN Org. Hence our conclusion and recommendation paragraphs 73-74 page 21:

*“The WIPO/AC is an advisory oversight mechanism for Member States. The interaction between the AC and MS has been sporadic and not synchronized with the PBC, which meets once per year. In other UN organization, there is a smaller and more functional layer of governing body that meets more frequently and interacts with oversight bodies, and acts upon their reports.*

*“It is recommended that MS consider the establishment, within WIPO, of a new more functional governing body meeting more frequently than the PBC, with a possible membership of twelve to sixteen”.*

I must stress that this recommendation is not simply advanced to meet the gap or the problem rising from the AC reporting on quarterly basis to the PBC which meets annually. This is more of an outcome although an important outcome. But the more important point in this recommendation is to close a gap in the governance structure in WIPO.

With the establishment of this smaller and more functional oversight body that meets more frequently Member States will be able to exercise their oversight role in a more detailed, precise and comprehensive manner. This may also lessen resort to informal sessions including those of the PBC. Following the deliberations on the revised budget 2010/11 one may also add that there is more merit to establish this layer of a governing body.

As an offshoot of this first recommendation and as in the case of the UN Sec and IFAD we have reached the conclusion and recommendation in paragraphs 75 and 76, page 21:

*“The oversight/audit committees in the UN and IFAD (see paragraphs 43 and 46 above) are subsidiary organs of their respective legislative bodies. It is recommended that the WIPO “Independent Advisory Oversight Committee (IAOC)” be designated by MS as a subsidiary organ of the PBC/GA or the suggested smaller governing body (paragraph 45).”*

As to the interaction with the Secretariat, the Audit Committee has, in its sessions, been examining and reviewing relevant documents, hearing presentations by various WIPO officials followed by open discussion. After committees deliberations, conclusions and recommendations have been reached by consensus. The Audit Committee also had inductions on a number of topics and met with the Director General on several occasions.

Nevertheless and as observed in paragraph 81, bullet point 1:

*“The AC considers that there is a need for (i) more understanding by the Secretariat of the role of external oversight as an arm of MS; (ii) improved understanding by the AC of the IP context and challenges; and (iii) better interaction between the AC and the Secretariat”. The AC further recommends that customized training programme be designed for new AC members.”*

The interaction with the Internal Audit has been extensive. IAOD has not reached the desired or acceptable level of effectiveness for reasons that have been observed and explained in our successive reports and recommendations.

We also stressed the importance of the operational independence of IAOD

The interaction with the External Auditor calls for more proactive measures from both parties. The triangular coordination and cooperation among the Internal, External and the AC needs strengthening and institutionalization.

I turn now to the “Composition and Membership of the WIPO Audit Committee”.

The AC was established in 2005 with 9 members (see document A/41/10). In the 2007 review, the term of office of members became 3 years. In 2008, the present membership was extended for another year with the provision that Member States decided to review the process of rotation and size of the AC. This is where we stand.

In our report before you we examined the situation of oversight/audit committees in the UN System Organizations including WIPO. For this purpose we prepared a draft survey table (Appendix I, WO/GA/38/2) and sent it to 21 organizations. Only 15 of 21 has or proposing to have oversight/audit bodies.

The table in Annex I, shows: Title and Date established; Membership; Role, Purpose and Reporting; Functions and activities; Sessions; Secretariat assistance.

An examination of this Table shows:

- a) There is no uniformity or standard among them;
- b) Variations in functions and activities;
- c) Membership varies between 4 to 9 or 9 to 2 (WMO);
- d) In most cases (9 out of 15) members are appointed by Chief Executives and report to them;
- e) In certain cases members are staff members or a mixture of staff and non

staff;

f) Only in 3 cases they are elected by Member States and report to them. Two other cases report to both the Chief Executive and Member States and usually for information basis;

g) In some cases members are paid honoraria or remunerations. In WIPO members are not paid.

The support by the Secretariat to the oversight/audit committees varies: a number has a dedicated Secretariat (UN P.5 and 1 GS) others have part-time professional/GS staff. In WIPO we only have a part-time GS.

For the differences and variations I mentioned one cannot conclude that there is a standard format in the UN System. The ones that meet the criteria of an external, review, expert, independent and advisory body elected by Member States and report to them are the Audit Committees in the UN with dedicated Secretariat (P.5 and 1 GS); IFAD (9) and WIPO(9) with 1 part-time GS.

In 9 out of the 15 organizations the members are appointed by the head of the organization and report to him or her. In these cases, (the majority), the oversight body is *de facto*, an additional layer of internal oversight. Such oversight/audit committees therefore are not external independent, advisory oversight bodies acting on behalf of Member States.

From what I have described one should not look into the membership numbers in vacuum and cannot talk of best practice in the UN Organization except in the 3 cases I referred to namely the UN Secretariat (5), IFAD (9) and WIPO (9).

Moreover other elements have a direct bearing on the membership numbers including:

- Skills and qualifications of individual members and corporate skills;
- Nomination and selection by Member States;
- Nomination and selection by Chief Executive;
- Geographical representation and rotation;
- Secretarial support; and
- Governance structure of the organization.

Despite all variations and differences and after analyzing Appendix I on oversight/audit committees in the UN System Organizations and responses from stakeholders we ventured to present three options/scenario concerning the membership (see document WO/GA/38/2 paragraph 63):

“(i) Option one: *nine members*:

- Maintains existing membership level

- Retains notion of “safety in numbers” whereby the risk of not having the right mix of skills and qualifications individually and corporately is mitigated
- Facilitates equitable geographical distribution and provision for specialized skills

(ii) Option two: *seven members*:

- Retains to a lesser extent the notion of “safety in numbers”
- Provides possibility of equitable geographical distribution

(iii) Option three: *five members*:

- Requires careful nomination and selection of members to ensure the right mix of skills and qualifications
- Does not retain the notion of “safety in numbers”
- Does not permit full geographical representation
- Requires more substantive professional Secretariat support than in options one and two.”

As for rotation this will have to be worked out once a decision is taken by Member States concerning the membership number taking into account that the present number cannot serve more than 6 years as the term of office is 3 years renewable once.

Before I conclude I would like to remind you that a review of the WIPO Audit Committee’s TOR is scheduled for 2010 and we hope that this assessment report and the questionnaire attached to it will help in this regard.

Finally Mr. Chairman, in the document WO/GA/38/2 dated September 5, 2009 our attached report is missing the first three pages: the cover page which shows the title, authorship and date of issuing, table of content and the list of acronyms.

We believe a corrigendum is in order. After all we are in WIPO, the UN Organization that deals with Intellectual Property and safeguarding rights of authorship.

More important is paragraph (2) of document WO/GA/38/2 where it reads:

*“The General Assembly is invited to take note of the content of the Assessment of the work and the operations of the WIPO Audit Committee” and its recommendations as indicated in paragraphs 72, 74, and 76 of this Annex.”*

In our report we have specific recommendations that are to be acted upon by Member States and not simply take note of them. The WIPO AC is an independent advisory body. It advises and recommends on behalf of Member States. We have reached those conclusions and recommendations for what we believe are the well being and more efficient and effective functioning of the organization. The final decision is that of Member States to examine and act

upon those recommendations. We trust you will consider those recommendations expeditiously and positively. Thank you Mr. Chairman.”

328. The Delegation of Egypt acknowledged the great effort that the Audit Committee expended since its inception. The Audit Committee was a chief body of the Member States in ensuring the proper management of WIPO. Similarly, the Delegation believed that the Committee, in future, should be looked upon as a body capable of delivering on the ever increasing work that the Organization was undertaking. At the last session of the Coordination Committee, Member States had requested the Audit Committee to perform elements of oversight on the voluntary separation program proposed by the Secretariat. The Delegation strongly believed that the Committee should be supported logistically. It also believed that the members were already overburdened with work, and therefore there was no rational reason to reduce the membership of the Committee. The Delegation had a few remarks on the report of the Audit Committee contained in document WO/GA/38/2. The Delegation requested clarification as to the meaning and the implications of the phrase: “The General Assembly is invited to take note of three specific recommendations.” The Delegation said that “to take note” did mean the same as “to act upon” and the Delegation believed that the recommendations needed to be acted upon. First, with regard to a change in the title, the Delegation thought that this was a rational description as to what the Committee did, and the Delegation supported that recommendation. Secondly, the Delegation supported the idea of the establishment an executive committee of the Organization as it believed that this would enhance the capacity of the Organization to respond on a continual basis to the requirements of programmatic and budgetary nature. The Delegation also supported the third recommendation pertaining to the designation of the Committee as the subsidiary organ of the PBC or the General Assembly, or in fact of the future body [executive committee]. The Delegation noted that the Committee, in the reporting on its meetings, had established a very positive level of cooperation with the secretariat on the new construction project. In this regard, the Delegation wished to see the same level of cooperation from the Secretariat with the Audit Committee on other issues, most importantly on the issue of the internal control. It further said that paragraph 21 noted the delays on the Secretariat’s part in implementing recommendations made by the Audit Committee since its sixth meeting. The Delegation requested clarification as to the nature of such delays and encouraged the Secretariat to keep up the same level of cooperation as during the new construction project.

329. Regarding internal controls, the Delegation of Egypt noted that in 2009 a draft letter on the proposed financial disclosures/declarations of interests was to be presented to the Audit Committee. The Delegation believed the letter had not presented to the Committee and inquired about its details and the lack of communication that had occurred. It recommended that direct channels of communication between the Audit Committee and Member State bodies be established. Further, the Delegation remarked that paragraph 37 of document WO/AC/12/2 noted with regret the apparent lack of progress on the issuance of policy on ethics and on financial disclosure, despite recommendations made by the Committee at its fourth, tenth and eleventh meeting. The Delegation requested clarification as to what exactly in the Committee’s view was the reason for this lack of progress. The final comment pertained to the thirteenth meeting (document WO/AC/13/2, page 5) and regarded the internal control and the issue of IPSAS. The delegation noted that concerns existed with regard to access security and the budgetary provisions for training. The Delegation sought the opinion of the Audit Committee on the changes being proposed to the Financial Regulations, which were being presented as being IPSAS compliant.

330. The Delegation of Pakistan welcomed the report of the Audit Committee. It added that it understood that the last report had been submitted to the Member States very late and wondered why the Audit Committee submitted this report that late to the Secretariat, as it was a very important report which needed due consideration and analysis. If such report was not submitted during the PBC session, the delegation did not have the opportunity to review it. The Delegation's second comment was directed to the Chair of the PBC. The Delegation wondered whether PBC was the right forum to discuss and comment on the Audit Committee's report addressed to the General Assembly through document WOGA/38/2.

331. The Delegation of Germany said it was indeed the time to receive such a comprehensive briefing from the Audit Committee and regretted that the PBC had not had sufficient time to during the July informal consultations to hear these reports. The Delegation expressed its support for the work of the Committee and added that it was very encouraging the unanimous support for its work. The Delegation supported the Committee's assessment that a more intensive dialogue between the Committee and Member States was needed and added that it would do its utmost to intensify this dialogue. It wished to underline what the Chair has said in terms of follow-up on Audit Committee's recommendations. There was the necessity to establish a proper follow-up mechanism, so that there would be a more concise and precise impact of the Committee's work, and that those to whom the recommendations were addressed were held responsible and accountable e.g., through the proposed "comply or explain" mechanism. On a different matter, the Delegation recalled that the Committee supported the use of the Reserves for the new construction project and requested clarification as to the extent the Reserves could be used for building of a new Conference Hall. Regarding the self-assessment report presented by the Vice-Chair of the Committee, the Delegation stated that, although it could not present Group B's position at this stage, the meeting of Regional Coordinators with the Audit Committee indicated that there was support for a number of recommendations. e.g. proposal concerning the change in name. The Delegation had been discussing the proposal concerning the possible creation of new governing body layers in the context of the Regional Coordinators format, and suggested considering more pragmatic and less formal resolutions to this issue. It did not necessarily see the urgency for creating new bureaucratic institutions. The Delegation also deemed it appropriate that the Audit Committee receive stronger administrative support from the Secretariat. Regarding the composition question, the Delegation informed the Committee that Group B had made the proposal to reduce the number of Audit Committee members and pointed out that a valid reason for such reduction would be a more intensified competition process in terms of the selection of Audit Committee members. The Delegation finally remarked on the fact that Group B seemed to be the only group that had responded to the self-assessment questionnaire sent out by the Audit Committee.

332. The Delegation of South Africa asked how the recommendations, which it deemed important and reasonable, would be addressed by the Secretariat, and how the appropriate follow-up actions would be implemented, for example concerning internal audit procedures, staffing and the voluntary separation scheme, as it felt that the recommendations should be implemented as soon as possible. On the subject of the hiring and selection process in Human Resources, the Delegation requested that the Audit Committee consult with the Director General to ensure that a suitable geographical balance policy within the Organization was observed. In connection with the issue of the building of the new Conference Hall, the Delegation voiced its concern that some information appeared to be lacking. It said that it was not quite sure as to how this would affect the project itself but that it would keep these comments for the agenda item on the Conference Hall. Concerning the assessment reports of the Audit Committee, the Delegation thanked the Audit Committee for the document and felt

that, in view of the important work being done, the Secretariat should ensure they were provided with the necessary resource so that they could better focus on their work. The Delegation appreciated and agreed with the recommendation to establish a new, more functional governing body. It felt that this would also relieve the Audit Committee of some of its tasks. The Delegation agreed with the name change, which it found corresponded better to the activities of the Audit Committee. The Delegation regretted not having more time to discuss the many points under review with the Audit Committee and suggested it may be appropriate to make organizational improvements so as to encourage more interaction and dialogue between the Member States and the Audit Committee.

333. The Delegation of Senegal expressed its gratitude to the Audit Committee for their work especially in the absence of remuneration. It noted that the Director General had raised the idea of setting up an Executive Committee and also proposed the setting up of a subsidiary body under the PBC or the General Assembly to overcome the problem of the lack of interaction between the Committee and the Member States. The Delegation confirmed that, in its opinion, there was a clear need for measures enabling the implementation and subsequent monitoring of recommendations made by the Audit Committee. It further asked whether such an Executive Committee could stand alongside the afore-mentioned subsidiary body, composed of between 12 and 16 members, and whether the Director General thought that improving interaction with Member States could be achieved by setting up an Executive Committee.

334. The Delegation of Ecuador, speaking on behalf of GRULAC, thanked the Audit Committee for the reports. GRULAC, after having carefully considered the assessment document and the three options on the future composition of the Committee, believed that option two would be the most feasible, thereby reducing the Committee to seven members, even though it recognized the merits of the other alternatives. GRULAC stressed that what was important, apart from the number of members of the Committee, was its effectiveness and efficiency. GRULAC further expressed its concern that there was no member from their Regional Group in the current Audit Committee and added that the Group was trying to correct this. Finally GRULAC pointed out the importance of providing financial and logistical assistance to ensure that the Committee could work effectively.

335. The Delegation of Iran (the Islamic Republic of) thanked the Chairman of the Committee for the comprehensive report, adding that it attached great importance to the work of the Audit Committee. It supported the idea of creating a structure to make it more efficient and functional and asked how the recommendations of the Committee could be implemented and acted upon.

336. The Delegation of India commended the Committee on the valuable assistance provided to Member States in oversight functions. It thought the oversight culture and system of accountability and responsibility was insufficient in WIPO as compared to other UN organizations and saw a very important role for the Audit Committee now and in the years to come. The Delegation further wished to point out one or two areas of concern. One concerned the lack of progress in the Internal Audit and Oversight Division and the second one was related to the monitoring of the Strategic Realignment Program (SRP). The Delegation wished to know if the Audit Committee had a detailed framework of the Strategic Realignment Program, which Member States had asked the Committee to monitor, as it had not yet seen one. The Delegation further expressed its concern at the long gap between the date of issuance of the Audit Committee's report and the date of their review by the PBC. It welcomed all the recommendations of the Audit Committee, in particular the one regarding

the setting-up of a more functional governing body that would meet more frequently than the PBC. It noted that the present budgetary process did not seem to be the optimal framework due to the number of informal consultations and the lack of time to consider the Audit Committee's reports. Another area of concern was the lack of implementation and follow-up with regard to the recommendations of the Audit Committee. The Delegation expressed its difficulty in understanding how many of the 226 recommendations had been acted upon and how many were outstanding. Concerning the issue of the time lapse between the consideration of the report and its submission, the Delegation suggested that it would be helpful to hold meetings or open-ended consultations with Member States at the end of each of the four meetings. This would allow Member States to be briefed on the reports and actions taken more than once a year. The Delegation supported the idea of enhancing the secretarial assistance to the Audit Committee, without linking it to the issue of the composition of the Committee, which would be addressed at a later stage. Finally, the Delegation endorsed the other points made by the Delegations of Egypt, South Africa, Senegal and Iran.

337. The Delegation of France expressed its gratitude to the Chairman of the Audit Committee for the presentation and regretted the late issuance, in one language only, of document WO/GA/38/2 making it difficult for the delegation to work on the report. Regarding the governance of the Organization, the Delegation stressed its three important components, the Internal Audit, the External Auditor and the Audit Committee. It was essential that each component played its role properly and stressed the importance of making the appropriate resources available for this purpose. Before talking about the mission and the remit of the Audit Committee, the Delegation considered it necessary to have an equally exhaustive report on the missions, qualities and remit of the Internal Auditor, which it considered as the first level of governance. Regarding relations with the Member States, the Delegation expressed its preference for an annual reporting, which made work easier to follow and limited the number of meetings organized. On the composition of the Committee, the Delegation said it would therefore take the floor under the specific agenda item.

338. The Delegation of Egypt supported the initiative presented by India for meetings between the Audit Committee and Member States as, in its view, this would enhance transparency and encourage communication. The Delegation wished to correct the statement made by the Delegate from Germany and said that Group B was not the only group to have responded to the questionnaire.

339. The Delegation of the Republic of Korea commented on paragraph 74 of the Audit Committee's recommendations. The first comment concerned the nature of the governing bodies, namely if the new body would be separated from the Audit Committee or if it would be a smaller body that would deal with the Audit Committee. The second question was to clarify whether or not this new body would be a governing body and when it would intervene. The Delegation thought this would be a major change and suggested that, if there were to be a new governing body, its members should be elected by the Members States and that it may even be necessary to change the WIPO Convention to comply with legal requirements and to determine how much support was required. According to the Delegation, a consensus on this issue was needed between the Member States. It further expressed its concern at the long discussions this may entail.

340. The Delegation of Indonesia congratulated the Audit Committee on its report. It reiterated the stand made by the Delegation of Yemen on behalf of the Asian Group, namely that it was not in favor of reducing the number of members of the Audit Committee.



341. The Delegation of Brazil supported the views expressed by GRULAC. It recognized the importance of the recommendations made, and the quality of the work done by the Committee. The Delegation suggested it may be useful to discuss how to obtain more focused reports. It further agreed with the view of the Coordinator that the composition of the Audit Committee was as important as its numbers.

342. The Chairman of the Audit Committee expressed his gratitude for the compliments received adding that this motivated the Committee members in their work. He mentioned the limited logistical support from the Secretariat. He stressed the importance of having an impact, and for the Secretariat to follow up on recommendations by specifying if each of these were complied with or, if not, to explain the reasons why. He said the Committee saw room for improvement and, in this respect, stressed the need for improving the communication between the Member States and the Audit Committee so that Member States could prioritize what had to be done. Concerning the suggestion made by the French Delegation, he said that having a yearly report would be a limited way of communicating on matters found out during the year, that this might not be enough for many programs and that, in this respect, Member States should find a solution. The Chairman of the Audit Committee assured that he was looking forward to hearing more from the Delegates and was willing to discuss the matter in detail once they had decided on an appropriate course of action. The Chairman of the Audit Committee announced that Mr. Othman was available to answer questions on the assessments. The Chairman reminded Member States that the Audit Committee had described the handling of the new construction project and the introduction of IPSAS as good. He further mentioned the Gap Assessment Study for internal control, which he considered important in identifying potential shortfalls, thereby improving the Organization's internal control systems if and where appropriate. Accordingly, he had recently asked the Director of the Internal Audit Oversight Division and the Director General to organize an internal control system in order to make standards known throughout the whole Organization, so as to ensure the good use of public funds. This meant the Organization needed rules and regulations for financial disclosure. He was aware that they had not yet reached the end of the whole process but remarked that improvements had been observed in several areas. The Chairman regretted the late reception of the reports, adding that he was not very familiar with the rules and regulations on issuing documents. He stressed the importance of discussing the content of the reports rather than the date of their reception.

343. The Chairman of the Audit Committee then turned to the specific question asked by the Delegate of Germany on financing the new Construction Project. He had said that the Members should consider the cost of interest on one hand and the money that could be gained by putting the Reserves into a Fund of the Swiss National Bank on the other. This had to do with the cost of a loan; there were differences between that and those differences had been used by WIPO. He could not guarantee that this system would continue to be profitable as this depended on the interest rates in Switzerland. In response to the Delegation's of India concerns about the Strategic Realignment Program, the Chairman said that he would see what materials had been received for their November-December meeting. If there was a program that was ready for the public use they could, if the Director General agreed, edit it as an annex to their Report of the 15<sup>th</sup> meeting. Member States could then read it and see what the Audit Committee had commented on. Regarding cooperation between the External Auditor, the Internal Auditor and the Audit Committee, the Chairman said that the subject was recently discussed with the Director General. The Committee recognized that the relation between the External Auditor and the Audit Committee could benefit from a more proactive approach on both sides and agreed, with the External Auditor, to produce a report on the ideal cooperation

between the two institutions during the first quarter of 2010. The contents could then be communicated to the PBC. The Chairman handed the floor to the Vice-Chair of the Audit Committee.

344. The Vice-Chair of the Audit Committee said he would concentrate on the recommendations which had received wide support but which required some further clarification, especially in respect of questions raised by Senegal, South Korea and France. Regarding the proposition for a new layer of governance, the Vice-Chair said that this would be a smaller, more functional body meeting more frequently and helping Member States in conducting part of their oversight role. It would mean more frequent reporting by the WIPO Secretariat to the Member States. It was not a mechanism designed to further improve the interaction between the Audit Committee and Member States although it would help. The recommendation was not put forward with the sole purpose of closing the gap between the time the reports were issued and the time the PBC met. It had more to do with reinforcing the governance structure within WIPO. He reminded that there were the Assemblies, the Coordination Committee, and the PBC that met once a year, and that the Member States were already aware that in three days they could hardly deal with all of the items on the agenda. Creating a new layer of governance that was more functional, smaller and that met more frequently would help Member States to follow the activities of the WIPO Secretariat more closely. As the Director General had mentioned earlier, an executive body or board that was mentioned in the JIU Report, was discussed at the 2005 General Assembly. The Audit Committee wished to use that new layer to report as regularly as it met. The Vice-Chair reaffirmed that this was not a mechanism for the Audit Committee, but a mechanism for the Member States. It would not be an election of new individuals in their personal capacities but Member States who would sit in that new Committee. He further noted that such bodies were prevalent in a number of UN organizations, such as the UN Secretariat, IFAT, WHO, ILO, ECOW. The Vice-Chair insisted on reiterating the question asked by him and by some Members States as to where they would go from there. The document before the delegations specified taking note of the recommendations. The question was whether the PBC would take the recommendations on these recommendations to the General Assembly or whether it would leave it for the General Assembly to decide.

345. The Chair addressed the question by the Delegation of Pakistan on the possible implementation of the recommendations made by the Audit Committee. The Chair noted that the Chair of the Audit Committee had made an oral report under item 7 of the agenda, and had referred to document WO/GA/38/2 containing Assessment of the Work and the Operations of the WIPO Audit Committee. However, the Chair also noted that the document was not addressed to the PBC but to the General Assembly, which would examine its contents, including the recommendations contained therein, the following week. The Chair added that, the PBC could, in its conclusions, make a recommendation in this respect to the General Assembly. However, since the document was addressed to the General Assembly, the final decision rested with that body.

346. The Delegation of Egypt believed that the Audit Committee reported first to the PBC and then, through the PPBC, to the Assemblies. Should this be the case, action should be taken by the PBC on the written report

347. The Chair reiterated that the written report was not addressed to the PBC but to the General Assembly of WIPO. In the PBC the delegation were to note the contents of the report and the presentation made but they could, of course, make whatever recommendation they deemed appropriate. The final decision, however, was reserved by the General Assembly.

348. Delegation of Egypt requested Audit Committee for provide its understanding on the way to proceed.
349. The Audit Committee responded that in previous instances the addressee of their reports was the same body.
350. The Delegation of Republic of Korea requested clarification regarding the role of the governing body [proposed in the Audit Committee's report], which could help improve communication between the Audit Committee and Member States. It also wished to know the legal procedures to be followed to possibly revise the WIPO Convention in order to establish such a body.
351. The Legal Counsel explained that the revision of the WIPO Convention lied in the hands of the WIPO Conference, not the PBC, and was defined by Article 17 of the WIPO Convention. It could be done either through a Diplomatic Conference or, as done in 2003, through a resolution of the Member States which would subsequently be accepted by the respective Member States after having gone through the various constitutional domestic processes
352. The Delegation of Germany asked a question of the Audit Committee regarding the funding of building projects of the Organization i.e., whether the Committee deemed it profitable that the Organization paid more for a loan to finance those projects, then it received as interest for the deficit from the respective reserves. The Delegation also wanted to put it on record that Group B was the only group (apart from one specific country) that had answered the self assessment questionnaire of the Audit Committee, I still think that this is the correct answer.
353. The Delegation of Egypt drew the delegations' attention to document WO/AC/12/2, which stated, in paragraph 37, that the Committee had benefited from an induction by Mr. Gian Piero Roz on Ethics and on Financial Disclosure in UN system. It also noted, with regret, the apparent lack of progress in the Organization on the issuance of an Ethics Policy and on Financial Disclosure, despite recommendations made by the Committee at its fourth, sixth, ninth, tenth and eleventh meetings.
354. The Legal Council explained that the report referred to by the Delegation of Egypt was several month old and that several developments took place since. In June 2009, a report on what had been done by the organization with regard to financial disclosure (document WO/CC/61/4, Financial Disclosure/Declaration of Interest) was submitted to the Coordination Committee. The document reported that the Director General had approved an Office Instruction that would be issued to staff members in the coming weeks. It was also suggested that the financial disclosure requirements be extended beyond just the one level and above, also to include staff members in Finance, Procurement and staff members with certain oversight functions – and that was being done. With regard to the Ethics, progress had been made, and an announcement for the post of the Ethics Officer was issued last July, the Appointment Board met a week ago and the appointment was expected in the coming days
355. The Chair proposed, in view of the observations and comments made, that the PBC make a recommendation to the General Assembly, which could read: "The PBC thanks the Chairman of the Audit Committee for the oral presentation which he made to the Committee

and recommends to the General Assembly that it carefully considers this recommendations with a view to their implementation”.

356. The Chair and the delegations discussed options for extending the meeting until late evening as of many points of the agenda were still to be discussed. However, in view of the Ramadan, it was agreed to prolong the meeting only until 7 pm and clear as many remaining items as possible.

357. The Delegation of Pakistan requested legal opinion on what would happen to the agenda items that would not have been discussed by the PBC and whether they could be submitted directly to the Assemblies.

358. The Legal Counsel responded that what would happen to the non-discussed agenda items was entirely up to the PBC to decide, even though the Counsel opined that the agenda items were on its agenda to be discussed and recommendations on them made before they were discussed by the Assemblies.

359. The Delegation of Egypt asked the Legal Counsel what would happen if the PBC was extended till the following day and the Chair would be absent.

360. The Legal Counsel responded that when the PBC Chair was not available, the Vice-chair served in his/her place.

361. The Chair said that his presence was not an issue, however, the interpreters would not be available for an extra day.

362. The Director General reminded delegations of the time (6 p.m.) and that the delegations concerned needed to break the Ramadan fast at 8:45 p.m. He suggested continuing discussion of the remaining items until that time. Regarding the possibility of extending the session, the Director General pointed out to a logistical problem of interpretation in all languages.

363. The Delegation of Tunisia suggested that agenda items dealing with progress reports be submitted directly for consideration of the General Assembly and that the PBC would discuss items 11 and 14 during the time still remaining.

364. The Delegation of India supported the solution proposed by the Director General.

365. The Chair closed discussion on the report of the Audit Committee.

366. The Program and Budget Committee thanked the Chair of the Audit Committee for his presentation and recommended to the General Assembly to thoroughly examine the recommendations made by the Audit Committee for their implementation.

ITEM 8 OF THE AGENDA  
COMPOSITION OF THE WIPO AUDIT COMMITTEE  
(presentation by the Chair)

367. The Chair reported that following consultations with the Regional Groups and other states who wished to attend, a proposal was agreed on and that the written text would be

distributed to the delegations. The Chair said that the proposal was for the PBC to recommend to the General Assembly to renew the mandate of all the members of the Audit Committee until January 2011. Then Members will review the process of rotation and the size of the Audit Committee with a view to finding a solution by the next session of the PBC in 2010. A Working Group would be set up, made up of the seven regional coordinators who would then elect a Chairman. The sessions of the Working Group would be open to Member States and to the Chairman of the Audit Committee. The Working Group would propose its recommendations to the next session of the PBC, in order to enable Member States to select the new members of the Audit Committee before December, 2010.

368. The Delegation of Egypt wanted to ensure that the Working Group could be attended by all Member States wishing to do so, with equal rights. Equally, the practice had been that the Chair and Vice-Chairs of the PBC were involved in the process of the Audit Committee issues. Therefore the Delegation also wished to see the Bureau of the PBC included in Working Group. The Delegation proposed the text to read: “establish a Working Group for the purpose of (ii) above, composed of the seven regional coordinators and open to other Member States, and the Bureau of the Program and Budget Committee”.

369. The Chair said that, following consultations with the delegations, some amendments would be made on sub-paragraph (iii), which said: “establish a working group for the purpose of (ii) above, composed of seven regional coordinators “and which stated that it was open to all Member States. This would be replaced by “interested” to read: “composed of seven regional coordinators, interested Member States, the bureau of the PBC.”

370. The Delegation of Germany had only one remark on paragraph (iii). The Delegation said that it was under the impression that in the first sentence, at the earlier stage the PBC had included a notion on electing a chair from within the Group Coordinators. Thus, it wondered where this notion has gone.

371. The Chair responded that indeed, his initial idea for the Working Group was to have a restricted group, made of the Group Coordinators which would elect a head or chief to carry out the work and this would be open to the Member States. However, as there were objections, he deleted the part that related to the head of the Group. He explained that this was to facilitate and delete the issue of the Chairmanship. However, this did not mean that there would not be a Chairman, but the PBC did not have much time to find a solution.

372. The Delegation of India referred to sub-point (iii), and requested that its original proposed language be used. With reference to the part mentioning: “chairs/vice-chairs” it asked that this text be retained if possible; whereas the elements in brackets or “the vice-chair in his absence” be removed, because it would give greater flexibility to the process. The Delegation opined that at this stage, it was better to keep things open-ended and flexible, rather than “absent not absent” “chairs/vice-chairs”. Thus, the suggestion from the India delegation is to keep: “Chair/vice-chairs in his absence”.

373. The Delegation of France, in response to the suggestion of the Delegation of India, noted that it could agree with a formulation of the text that would refer to the presence of the Chair and in case of problems, that of the Vice-Chair. In its view this would be an effective compromise for ensuring that everything was correct.

374. The Chair suggested, given that there were no other comments, that the PBC adopt the text of decision on the Composition of the Audit Committee. He reminded the delegations that it would be conveyed to the General Assembly, alongside with other documents.

375. The Program and Budget Committee (PBC) recommended to the General Assembly to:

- (i) renew the mandate of all members of the Audit Committee until January 2011;
- (ii) review the process of the rotation and the size of the Audit Committee with a view to agreeing on the relevant changes at its 2010 session; and
- (iii) establish a Working Group for the purpose of (ii) above, composed of seven (7) group coordinators, interested Member States, the bureau of the PBC and the Chair of the Audit Committee (or the Vice-Chair, in his absence). The Working Group will submit its recommendation to the next session of the PBC (in 2010) to enable Member States to select the new members of the Audit Committee by December 2010.

ITEM 9 OF THE AGENDA  
REPORT BY THE INTERNAL AUDITOR  
(oral presentation)

376. The Internal Auditor (Director of Internal Audit and Oversight Division) recalled that the present report was delivered pursuant to paragraph 22 of the Internal Audit Charter. Summary Annual Report would also be made to the General Assembly, which would provide delegations with another opportunity to ask questions, in view of the brevity of this presentation. The Internal Auditor said that to maintain transparency of IAOD activities, a very comprehensive quarterly report was made to the Director General, which was also forwarded to the Audit Committee. The Internal Auditor recalled that the Internal Oversight comprised three distinct sections: Internal Audit, Investigation and Evaluation. Reporting on the activities of the Internal Audit Section, he said that its resources were going to be strengthened as another internal auditor was being recruited. He noted that, although a lot of reporting on high priority audits were completed or were underway, e.g., audits of Travel and Mission Support, IT Access Controls, New Construction Project, Payroll system; a long list of high risk topics remained to be audited, which had not previously been done due to the lack of internal audit resources over the years. The Internal Auditor specified that the IAOD endeavored to prioritize and choose topical audits, audits important for the Organization. He directed the delegations to the bullet points of the presentation regarding the audit of WIPO's revenues, i.e., the PCT, Hague and Madrid systems and added that according to a standard practice such important sources revenue should be audited regularly, if not annually. He reported that activities of the Internal Audit Section had recently been reviewed by the External Auditor. The draft report concluded that internal audit was 80% compliant with International Internal Auditing Standards, which was a big achievement for a section that had been in place for only a couple of years. The Internal Auditor added that the Section aimed to achieve 90% compliance within the next couple of years. He stressed the very satisfactory results of the External Auditor's report and underlined that these good result were achieved in a short period of time with very few resources. The Internal Auditor said that the Section was pleased to have contributed to the self-assessment of the Audit Committee. The Audit

Committee was a key element of WIPO's governance structure and it was very important that it worked well and efficiently.

377. Reporting on the work of the Investigation Section, the Internal Auditor said that extra staffing and other resources had been requested as the Section had a very significant ongoing workload and unfortunately also a backload to work through. Discussions were also taking place to provide longer term arrangements for another investigator. WIPO Investigation Policy Manual was being developed, with the legal framework that would entitle the Section to carry out investigations in the Internal Audit Charter and in full compliance with the United Nations Guidelines for Investigations. The Manual should be completed as soon as possible, however, it was decided to concentrate efforts on investigations rather than on the document. The Internal Auditor wished to stress the excellent working relation maintained with the Office of the Legal Counsel and Human Resources Management Department. Under the Internal Audit Charter the Section was also required to work very closely with the Ombudsman to ensure that there was no crossover or contradiction. The Section also provided investigation services to the WIPO Joint Grievance Panel and liaised well with the Staff Council.

378. Reporting on the work performed by the Evaluation Section, the Internal Auditor pointed out that, unfortunately, resources for the Section had not been available in recent months. The Evaluation Section would start up again on the October 1, 2009 and recruitment for a Head of Section was under way. For the highlights of evaluation work, he referred the delegations to the validation of the Program Performance Report. He recalled that the Validation Section was instrumental in the preparation of the 2006-2007 Report. For 2008 report this responsibility was handed over to the Program Management Section and the Validation Section's present role was to validate this report and the information it contained. The first validation exercise had been carried out with limited resources, focusing on learning issues. When the complete Program Performance Report for 2008-2009 would be validated, the Section would cover all aspects of learning and accountability (throughout the Programs). The Section also prepared draft self-evaluation guidelines for Program Managers, to fill up the existing procedural gap. The Internal Auditor said that the Section continued its efforts to give as much support as possible to the Development Agenda and the five related recommendations: for recommendations 1 and 6, the Section was trying to provide sensible advice and guidance although it was not directly related to its oversight function. The remaining three recommendations, that specifically mention evaluation and its importance, especially independent evaluation from the Evaluation Section, were very relevant to the Section and the Development Agenda.

379. The Delegation of France reiterated its support for the Internal Auditor within WIPO, noting that it was a priority to strengthen that Division and requested clarification on the level of human resources available to it as it wished to ensure smooth operation of that Division.

380. The Delegation of India requested further details regarding what the IAOD was currently doing to streamline the recommendations and the additions of the Audit Committee and wanted to know if there was a process to undertake suggestions of specific recommendations made by the Audit Committee and timelines drawn up for that.

381. The Delegation of Egypt requested the Secretariat to elaborate on the staffing needs of IAOD, i.e. whether they had been met, what were the priorities in that regard, and whether it wished to raise any issues pertaining to staffing with the Member States.

382. The Secretariat (the Internal Auditor) explained that there were six posts approved for IAOD initially in 2009, which were reduced by one post in the revision of the 2009 Budget. In headcount terms, there was the Director, a Senior Internal Auditor, a Senior Investigator, a temporary Secretary and also, for the time being, a temporary Investigator on loan from UNOG until the end of the year. The Senior Evaluator was presently on temporary loan to the Program Management and Support Division. IAOD had vacant posts for the Head of Internal Audit, which was under recruitment, and one more for the Head of the Evaluation Section, which was currently vacant. In terms of resources, IAOD also made good use wherever possible of consultants and experts to support the work of the division, because it was and would always be working in very small sections. This had been very helpful previously in relation to earlier IT audits as well as the division's investigation work, where a forensic expert had been hired. The Secretariat further noted that an Audit Needs Assessment based on risk had been carried out, looking very closely at what needed to be audited in WIPO, then assigning risks to these audit needs. The result of the assessment revealed that, at present, some five man-years of audit work were required to cover all high risk audit areas, but this would decline as more audit work was done and the risks were managed better. At the present time it was considered appropriate to aim for an Internal Audit Section of three. The Investigation Section should be composed of a Head of the Investigation Section and of two very experienced investigators, although this was the initial view only, since there was a backlog of investigations which required additional resources to clear up. It further clarified that the process of recruiting another investigator was ongoing, which would ensure that there were two investigators working in this area.

383. In respect of the Evaluation Section, the Secretariat noted with disappointment that the section had not been functioning. It was very unfortunate that IAOD's Head of Evaluation Section had resigned earlier that year, and recruitment for the replacement was to begin soon. As far as Evaluation was concerned, a Section of two seemed to be adequate and whilst there might be some need for momentum to be built up as the evaluation policy was implemented - which the Director General implemented in 2007 - two should be satisfactory. The Secretariat recalled that IAOD managed a system which had been set up for tracking all oversight recommendations. The status of implementation of these recommendations was tracked in the database, in order to enable better management reporting for the Director General and the Audit Committee. Following a renewed call by the Director General to all managers to address these recommendations, together with the newly introduced tracking system for the same, the improvements were clear. The number of recommendations not fully implemented had diminished and the total number of outstanding recommendations was getting smaller. The Secretariat further pointed out that it was the Management's responsibility to ensure implementation of the recommendations or to explain why they would not be complied with, not that of IAOD's. Following a number of discussions on this subject with the Audit Committee, this was now fully recognized.

384. The Delegation of Egypt expressed its concern at the lack of proper staffing in the IAOD and also expressed its unease with the stream of external expertise that was being drawn in to carry out functions that were inherent in any IAOD function. It believed that these were issues that should be dealt with properly by the Internal Auditor and that there was no need to outsource a lot of these activities. It was therefore needed to ensure that there was sufficient staffing level for this.

385. The Delegation of France shared the concerns voiced by the Delegation of Egypt with respect to the lack of resources for IAOD, particularly in the Evaluation Section, which it considered was urgent to establish. Given the number of programs in WIPO, it appeared



important to have proper monitoring in place in the coming years. Regarding the recourse to external competencies, the Delegation thought it was wise to do this from time to time because internal structures did not always have the competence to monitor technical subjects.

386. The Delegation of India expressed its support for the statements made by France and Egypt and shared their concern about staffing situation in IAOD and also the lack of time to discuss this subject properly. The Delegation wished to get clarification as to what was being done for operational independence of the IAOD, which was a key recommendation of the Audit Committee and also, if there was any movement towards establishing an Annual Statement of Internal Control, which was a standard accountability norm in most UN organizations.

387. The Secretariat responded and noted that the Internal Auditor was required to be operationally independent by the Internal Audit Charter. Normally, the independence requirement was functional for internal audits. It was stressed that not having the right amount of resources could have an adverse effect on operational independence, and how this was addressed would have to be discussed more closely and carefully with the Audit Committee. The Secretariat reaffirmed its support for an Annual Statement of Internal Control, which would be a statement for Management to make. In addition, it would be appropriate to consider performing a validation exercise on the Statement, so that Internal Audit would provide an opinion about the Statement of Internal Control by Management. IAOD, for its part, would also contribute to such a statement, confirming that it had a fully operational resourced Internal Audit and Internal Oversight Section.

388. The Program and Budget Committee took note of the Report by the Internal Auditor.

#### ITEM 12 OF THE AGENDA STATUS OF THE UTILIZATION OF RESERVES

389. Discussions were based on document WO/PBC/14/8.

390. The Secretariat (the Controller) introduced document WO/PBC/14/8, containing a summary of projections concerning the availability of Reserve Funds and Working Capital Funds at the end of 2008/09, as well as an overview of the proposals for their use. There was also information on the impact of these proposals on the level of liquidity in the Reserve and the Working Capital Funds. According to the latest estimates, it was envisaged that the level of the Reserve and Working Capital Funds would remain unchanged from the December 31, 2008 level of 235.8 million Swiss francs at the end of 2008/09. In line with the balanced budget proposed for 2010/11, this situation was not expected to change as of the end of 2010/11, and the level of the Working Capital Funds and Reserve Funds would therefore amount to 235.8 million Swiss francs. The target level of Reserves, as determined by the Member States, would be at 117 million Swiss francs. Therefore, the remaining amount of 119 million Swiss francs would be available for various projects. The Secretariat highlighted the list of projects presented on page 3 of the document, which were envisaged to be financed by these Reserve Funds, for a total of 96.2 million Swiss francs. This included 20 million Swiss francs approved in 2008 for financing of the new construction and 24 million Swiss francs which would be proposed for the new conference hall.

391. The Delegation of the United States of America welcomed the information explaining previously approved and proposed uses of the Reserve Funds. It reiterated its concern regarding WIPO's growing level of Reserves and continued to believe that WIPO generated a greater amount of income than was necessary to run the Organization efficiently. The use of Reserve Funds should be for extraordinary, one-time expenditures and not for ongoing activities that were properly part of the Budget. The Delegation considered that the expenditures described in the document met this requirement and were an appropriate method of reducing the level of Reserves.

392. The Delegation of India noted that the Reserve Funds were being drawn for two purposes, both of them related to the construction work that WIPO was currently undertaking. It wanted to know when the policy on Reserves would be ready for consideration. The Delegation of India shared the concern expressed by the United States about the high level of Reserve Funds and requested to see the outline of the Organization's policy on Reserves, together with its annual plan, if there was one, on how these were managed.

393. The Delegation of South Africa expressed its thanks to the Chairman and to the Secretariat. It recalled that it had already asked for the policy on the use of Reserves earlier, and reiterated its request to have it as quickly as possible.

394. The Delegation of Germany stated its support for the statement made by the Delegation of the United States. It further requested clarification as to whether it was deemed possible to allocate a higher amount to such one-off expenditures from the 22.8 million Swiss francs of "free reserve" (i.e., the difference between the 119 million Swiss Francs above target level and the 96.2 million Swiss francs already committed).

395. The Delegation of Egypt requested clarification in respect of the reserve balances shown for the end of the 2010/11 biennium. It wished to receive confirmation of whether these figures included the cuts to the Reserves that would be taken for the construction of the conference hall and the other uses of the Reserves or not. In its view, the level of the Reserves for the 2010/11 biennium would be much lower than shown in the document, and the follow-up question would then be whether this would take the level of the Reserves below the target level.

396. The Secretariat responded by explaining that a document on the Reserve Policy would be submitted for the forthcoming session of the PBC. It confirmed that, as noted by the Delegation of Germany, there would be an amount of 22.8 million Swiss francs, which was "free reserve", which could be devoted to projects that might be undertaken. The Secretariat recalled again, however, that a number of projects, particularly IT projects could be proposed for implementation by the end of the 2010/11 biennium. With reference to the question from the Delegation of Egypt, the Secretariat confirmed that the total amount of the Reserves, i.e. 235.8 million Swiss francs, corresponded to the amount before any money was taken away from it. Of that amount, an amount of 116.8 million Swiss francs represented the target reserve level, which had been defined by the Member States in 2000.

397. The Delegation of Egypt wished to further clarify whether the amount of 235.8 million Swiss francs included the amounts proposed to be taken from the Reserves, including whether the amounts proposed to be used to fund the New Conference Hall would be deducted from that amount or if they had already been deducted. The Delegation wanted to know what the level of the Reserves would be if these amounts were yet to be deducted, and whether that would mean entering into a critical level with the Reserves.

398. The Secretariat responded, stating that if all the amounts proposed and approved for utilization from the Reserves, amounting to 96.2 million Swiss francs, were deducted from the 235.8 million Swiss francs, the remainder would be 139.6 million Swiss francs. Of this amount, it was recalled that the target level required was 116.8 million Swiss francs.

399. The Delegation of Egypt pointed out that this represented a different figure from the one shown in the Program and Budget document in respect of the level of the estimated Reserves. It wished to highlight this for the attention of Delegations and requested inclusion of a reference to this to ensure that everybody was aware of what was being adopted.

400. The Delegation of India noted that the Reserve Fund needed to be reduced to the targeted baseline mandated by Member States. It further noted that while over 80 million Swiss francs had already been spent from the Reserves and more was going to be spent, it appeared to be impossible to find 1 million Swiss francs for the Development Agenda or for the SMEs, which were programmatic activities mandated by Member States. The Delegation was of the opinion that there was an anomaly in the way the Reserves were being used and this supported a clear need for a well defined Reserves Policy, and reiterated its request that this be expedited.

401. The Delegation of South Africa also wished to stress the need for the Reserves Policy, which it had already requested before. It further requested that a target date be set for the submission of the draft of this Policy, proposing that it be made available in writing for the next PBC.

402. The Secretariat confirmed that a draft of the Reserves Policy document would be presented to the next meeting of the PBC.

403. With regard to the Reserves Policy, the Delegation of Egypt wanted to know further details about the ongoing work referred to by the Secretariat, and requested that the Member States be involved in these consultations. In its view this would speed up the elaboration and adoption of the Policy. The Delegation considered that it would be very positive to have the Member States involved from the very beginning.

404. The Secretariat recalled that when the issue of the Reserve Policy was raised at the informal consultations, it had indicated to Member States that there were certain technical aspects of how to formulate this policy which would be affected by the introduction of the International Public Sector Accounting Standards. Member States' attention was drawn to the detailed list of what elements on the Financial Statements Balance Sheet and Income and Expenditure Statement were affected by the introduction of IPSAS, as noted in the progress report on the IPSAS/FRR project implementation. As illustrated in that document, as well as in the information document on the Reserves under discussion, the introduction of IPSAS affected the level of the Reserves, as well as the liquidity of the Reserves. Accordingly, the Secretariat had proposed, as this had been indicated in written responses to Member States' questions presented at the informal consultations, to put forward a draft on the Reserve Policy, for consideration by Member States within the following year, in other words for the next PBC. The usefulness of early consultations on this subject was acknowledged, but the Secretariat suggested that such consultations would more appropriately take place once a draft proposal of the policy was available to consult on. It recalled that significant work was ongoing to assess the impact of the IPSAS introduction, as well as to support the implementation of the procurement and the asset management modules. This work also

incorporated the design of reports and financial statements to be produced, which would also assist in determining the elements of a proposed Reserve Policy. Once these elements were crystallized in the form of a proposal that could be shared as a basis for consultation with Member States, the Secretariat will ensure that consultations will be launched.

405. The Delegation of France indicated its full support for the approach and proposal set out by the Secretariat. It considered that a new reserve policy deserved in-depth technical analysis from the Organization and only after would the Member States be able to discuss it. It noted that the idea of an informal consultation process before the next PBC would enable them to have a more constructive exchange on this matter.

406. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, to take note of the contents of document WO/PBC/14/8.

#### ITEM 14 OF THE AGENDA PROPOSAL FOR A NEW CONFERENCE HALL

407. Discussions were based on document (document WO/PBC/14/10)

408. The Secretariat (Secretary of the Construction Committee) made a presentation of the Project on the basis of document WO/PBC/14/10 and the Architect's brochure. It recalled that the issue of adequate meetings facilities at WIPO had been raised since the 1990s and that, in 1998, the Member States had approved the launching of studies for a new building and a new conference hall and that, in 2002, the Member States had approved a project including a new building, a new conference hall and additional parking reserved for delegates. The Secretariat said that it continued to watch the trends in the evolution of membership to the WIPO treaties and attendance of meetings. It noted that WIPO meetings nowadays were no longer limited to plenary sessions, but included various multilateral and bilateral discussions. There were more interactions than in the past between the various Unions and the various committees under these Unions. The Secretariat recalled that, in December 2008, the Member States had approved "Phase One" of a new conference hall project, and that the proposal now before the PBC included the complete architectural and technical project, as well as a complete dossier for the building permit application which would be ready to be filed upon decision by the Assemblies. The detailed proposal contained in document WO/PBC/14/10 related to "Phase Two" of the Project was to be examined by the PBC for a recommendation to the Assemblies, the latter being invited to take a decision. Should the Assemblies approve Phase Two at their upcoming meetings, that Phase would commence from October 2009 (with one year for the tender process for the future general contractor), the construction would start in January 2011 and would end at the end of December 2012. The total construction time would therefore be two years.

409. The Secretariat provided additional information in respect of three issues relating to WIPO meetings: the required combination of rooms, the required number of days (the latter during the required period). It said that the Assemblies required one large meeting room with more than 800 seats as the number of attending delegates had reached over 800 for the last three assemblies, and as would be the case for the September 2009 session. In addition, at least twelve breakout rooms were needed for the delegates: seven for the WIPO regional Groups, one for the Groups Coordinators, and about four rooms for bilateral meetings. Finally, if meetings were held off-site, a number of offices were needed for the Assemblies'

Chair and the Secretariat: individual offices for the Chair of the General Assembly and the Chairs of different bodies, and about ten individual offices for WIPO staff. An Assembly session lasted for nine to ten consecutive days, and, if held off-site, three to four additional days were needed to install and then to vacate the rooms. Medium-size meetings were considered to be the meetings of the four main standing committees (SCIT, SCP, SCT, SCCR), the IGC, the CDIP and the PBC. The meeting room required for such meetings should have, on average, between 200 and 300 seats (Room A capacity including the foldable chairs). Furthermore, the same number and kind of breakout rooms was needed, with possibly a few less offices for the Committees' Chairs and the Secretariat. Each such medium-size meeting lasted between two and five days, and if held off-site, additional two to three days were needed to install and then vacate the premises. At present, medium-size meetings were attended by 200 to 250 delegates. The Secretariat estimated that, based on the existing trends, in five years these numbers would grow to 300 to 400; and in 10 years between 400 and 500. The total of main medium-size meetings selected for the purposes of the study amounted to 13 sessions in a year and 57 days of sessions. Adding one Assemblies session a year, brought the total to 14 sessions and 67 days, or a monthly average of one meeting and of five days minimum. Discounting the slow periods of the year (August and mid-December to the end of January), the monthly average was one meeting and almost seven days.

410. The Secretariat then referred to the questions raised by delegates in the December 2008 PBC session, in July 2009 informal session, as well as during the informal presentation of September 3, 2009 (with the Architect) concerning alternative solutions. As to the CICG, considering the six-year period from 2008 to 2013 with reservations made five years in advance, for the WIPO Assemblies the Secretariat could only obtain all required days and rooms during the required period for 2010 and 2013, i.e., in only 33 % of cases. There was no availability for 2009. WIPO was on the waiting list for 2012. For the remaining two years (2008 and 2011), WIPO could not obtain all the days or all the rooms asked for, with the consequence that the meetings would have to start in one building and then move back to WIPO. Furthermore, to add to the complexity of the matter, the Secretariat highlighted that for 2011 the ITU had asked if WIPO could vacate the CICG, even though WIPO did not have the CICG for the whole period, because ITU needed space at the time for a meeting at the CICG. WIPO had inquired at UNOG, which had provided two options: either one big room and two breakout rooms for the period requested by WIPO (which would mean that a choice would have to be made which WIPO Country Groups would benefit from a breakout room at UNOG and which ones would have to come back to WIPO headquarters for their breakout sessions), or one big room and the necessary number of breakout rooms but only if the Assemblies date would be changed to the beginning of October. That period happened to be during the ITU TELECOM when hotels were not available, which the Secretariat considered as not acceptable, in particular with respect to delegates coming from capitals.

411. Concerning possibilities in UNOG, the Secretariat informed the PBC that, in the last ten years, WIPO had not been able to obtain the required combination of rooms, for the required number of days and at the time scheduled for the various meetings. From time to time, it would have been possible to obtain one large meeting room and a few breakout rooms, or more rooms but for some days only, or at a different time. At UNOG, like elsewhere, August, end of December and January were very slow months, during which it was easier to obtain meeting rooms. However, at WIPO as elsewhere, few meetings could be held during those months. Furthermore, in allocating its rooms, UNOG gave priority to its own meetings, to the UN programs and UN commissions and to meetings called by UN New York. In terms of scheduling meetings, UNOG considered meeting requests from other Organizations only once

a year, in December, for the coming year. Consequently, it had not possible for WIPO to secure meeting rooms several years in advance or at rather short notice. Finally, UNOG did not offer the same flexibility as WIPO could offer to delegates coming from the capitals, in particular registration at meetings when delegates did not hold a UN badge. It would also be more difficult for delegates to register at meetings after the deadline or if they arrived during the meeting. WIPO had been dealing with this matter quite easily, considering that, according to the conference services, 20 % of delegates attending WIPO meetings came from capitals. The Secretariat wished to have sufficient flexibility in offering WIPO Member States options for holding meetings of different types, nature and length, so that Member States could work in accordance with the respective agendas and priorities of the various Unions. Inter-relationships between certain meetings, e.g., the PBC should be held before the Assemblies, meetings of various bodies of the PCT, Madrid or the Hague Unions should be held consequently or concurrently, depending on what needed to be subsequently approved by which body at the next level. Furthermore, the timeframe issue was not identical to all Unions, the decision making processes by Member States were not the same in all cases. Over the years, there had been a negative impact, caused by the limited room availability at WIPO and elsewhere in Geneva: meetings schedules of the UN and other Organizations took precedent over WIPO meetings.

412. The Secretariat explained that the proposed project for a new conference hall included a large room with 900 seats (including 871 seats for delegations and 29 for the podium), nine interpretation booths and a foyer for a thousand persons. The related facilities particularly aimed at delegates included delegates' lounges, document counter, internet desk and cloakrooms, all commensurate with the size of the future hall. The Secretariat recalled that the underground link being currently built between the AB Building and the new building would include a delegates' parking. Since the project aimed to match the needs of Member States whose delegates met in various groups, with delegations of various compositions, the project included additional meeting rooms on the mezzanine of the AB Building (in addition to the three existing rooms). Two of the new rooms would have interpretation facilities, the other four smaller rooms could be combined to create bigger rooms. Furthermore, the lobby would be enlarged, and the existing visitors' center (currently on the terrace of the AB building in a temporary setting) would be relocated in the enlarged lobby. Finally, the forecourt and the access area to WIPO would be re-sized to include, at the same time, the functions of security and access control, and those of registration for meetings for delegates and other visitors. The access ramp to the AB Building parking would be relocated to make enough space in front of the AB Building. The underground of the AB Building would also be improved in order to relocate facilities that would be left behind when WIPO would occupy the new building and would have returned the rented premises.

413. The Secretariat provided some detailed figures in terms of capacity of the various rooms (at present and with the proposed project): Room A had 270 seats (325 with the foldable red chairs); Room B had 86 seats; while the new hall would have 900 seats and could be used in two other configurations (while not being dividable) of 765 or 340 seats. It would be possible to hold two meetings concurrently with about 300 participants each. As for small breakout rooms, in addition to the two existing rooms on the 13<sup>th</sup> floor of the AB Building, there were five rooms on the mezzanine, (Bilger Room, Bauemer Room and Uchtenhagen Room and two other small rooms). One of these small rooms would no longer be available after the renovation of the mezzanine. Two rooms currently located in rented buildings would not be available when the new building became available in January 2011, but, as of that date, three new meeting rooms would be available in the ground floor of the new building. These rooms were specially designed for arbitration and mediation sessions, but they could also be used

also for other types of meetings and therefore, available to delegates. In conclusion, at present, there were nine breakout rooms and there would be 15 in the future. The Secretariat highlighted that the proposed project was fully UN H-MOSS compliant as the UN H-MOSS standards had been taken into account from the start of the design. Accessibility would be facilitated, in particular for the physically and visually-impaired. Environmental concerns had also been met. And finally, the future hall could be used for external meetings, which, as explained in the architect's brochure, had been integrated on the design the start. It would be easy to separate the parts of the premises for external use from the parts for WIPO use. The external parts would be available to WIPO Member States, for non-WIPO related meetings, to other IP stakeholders or to other entities or parties.

414. The project's estimated cost (construction cost, honoraria and fees for the new hall *per se*) amounted to 55.3 million Swiss francs. The adaptations to the AB Building (mezzanine, ground floor, forecourt and underground) and of the new building underground amounted to 8.9 million Swiss francs, arriving at a total of 64.2 million Swiss francs. Since last year the Assemblies had approved 4.2 million Swiss francs for the honoraria, which now had to be deducted, a new total was therefore 60 million Swiss francs. Similarly to the ongoing construction project, the Secretariat proposed to add a "provision for unforeseen", corresponding to 6% i.e., an additional 4 million Swiss francs. In conclusion, the remaining total for which a recommendation, and subsequently a decision, was sought was 64 million Swiss francs. The Secretariat proposed to finance this amount with 24 million Swiss francs to be appropriated from the WIPO Reserves and 40 million Swiss francs to be taken as an extension of the existing loan. As indicated in document WO/PBC/14/10, the banks would be prepared to extend to WIPO the same conditions for the loan as for the ongoing construction. The effect on the regular budget would only be felt as of the 2012/13 biennium, because the need to make a first draw from the loan should not occur before 2012. The cost of the interest, based on current information any charges would represent a total of 1.6 million Swiss francs for that biennium. The project management structure would be based on the existing structure in place for the ongoing construction: (i) the Construction Committee and the Internal Project Monitoring Team; (ii) the architects, engineers and project pilot; (iii) the Project Charter, Risk Registers; and (iv) the Selection Board (for selecting the future general contractor), composed of a number of officers who would be elected by the upcoming Assemblies. The Chairs of the various Assemblies and Committees would be chairing and vice-chairing the Selection Board. In terms of audit and control, the existing three levels of audit, external audit, WIPO Audit Committee and internal audit would continue as for the ongoing construction, and the Secretariat would continue to seek advice from the Institute of Swiss and International Construction Law attached to the University of Fribourg.

415. The Delegation of Spain stated that it was not against the construction of a new hall. However, it believed that, first of all, Members needed to be consistent with what was decided and, secondly, that it was not the appropriate time to do it. The delegation thought that decision could wait for another two years, a better appropriate time when the crisis would be over. The Delegation highlighted two points which affect Members directly. It said that the list of interpretation facilities in the new rooms indicated facility for nine languages. If there was no money today to extend translation and interpretation service, why would WIPO need so many rooms with so many interpretation booths if they would be empty because of lack of funds. Another reason given was that WIPO could not seek other meeting places because of the lack of hotels. Thirdly, the Delegation highlighted paragraph 13 of the document which stated the construction of the new hall could be a direct benefit to countries, in particular countries the developing and the least-developed countries. The Delegation could not understand how it was possible that pursuant to that principle, Member States wanted to

spend 64 million Swiss francs to benefit the developing countries and the LDCs, while denying those countries one million francs [on SMEs]. There needed to be consistency in the decisions taken. If Members were saving money: no further translation/ interpretation, no money to give to projects for developing countries, how it was deemed that a construction of 64 million francs was a valuable investment.

416. The Delegation of Tunisia reaffirmed its support for the construction of the new conference hall. WIPO was enjoying greater and increasing visibility, the Delegation felt that there was a great deal to gain (and appropriately host the delegations) by taking the opportunity to built a new hall, especially as there was already construction underway. Member States should take into account the fact that the project would not only serve them today but would be there for the future generations. However the Delegation drew attention to paragraph 36 of the document referring to a proposal to set up supplementary meeting rooms, between 15 and 45 seats each. The Delegation requested that the project take into account the needs of bigger Regional Groups, like the African Group, which required rooms with 70 to 80 seats.

417. The Delegation of Monaco said that despite the evident conference seating space problem facing WIPO, more comprehensive information would be to taken an informed decision on the project. The section of the document on various options or alternatives was quite brief section. It suggested that a list could be added in the Annex with detailed five-year timeline for conference room rentals at the Palais des Nations, to ascertain what the possibilities and availabilities were at the time of the Assemblies and to take into account that this solution was not indeed viable. Furthermore, document noted that no information was available on the possibility of renting the WTO room. The Delegation requested clarification on this particular point. Finally, the Delegation stressed that Member States needed consistency in the information provided: PBC was listed as a meeting requiring 200 to 300 seats while in the last three years the PBC was only attended by about 120 persons.

418. The Delegation of Senegal said that it was not in a position to go beyond a general statement made on behalf of the African Group at the start of the session, namely that the African Group wished to see good management of the cost, given the international economic crisis.

419. The Delegation of China said that it was aware that the growing activities of the Organization have led to a growing demand of conference facilities and the lack of conference rooms would be felt during the upcoming Assemblies. The Delegation endorsed the proposal put forward in the document. It believed that the proposal was part of the strategic objectives. Following the discussions on the Program and Budget, the Delegation could see that the activities of the Organization would cover further areas and the interactions between Member States, WIPO and other organizations would intensify. For that purpose, practical conference facilities would be needed. The best solution would be to use the conference halls that belonged to the Organization, the time to resolve the issue was now. Furthermore, the world economy was getting better, expenditures linked to others were relatively low and when the world economy would be re-established, the cost of goods and labor would significantly increase and so would the cost of the construction, if it was not decided at present. The Delegation reiterated its endorsement of Phase Two of the project and hoped that the Secretariat would obtain the resources to implement the project as soon as possible.

420. The United States of America appreciated the detailed proposal for the new conference hall and noted that the project exceeded the initially estimated cost of 60 million Swiss francs



previously provided by the Secretariat. At the time the Delegation had felt that the estimate had been high and ways should be found to reduce the cost. It had also felt thought that the proposal to construct the conference hall should indicate where cost savings could be identified and also how the Secretariat planned to limit the risk of future cost increases should Members agree that the project should proceed. The delegation further recalled that, at that time, it sought information about any lessons learned from the new construction project and how those lessons learned or efficiencies could be applied to the construction of the conference hall. The Secretariat's proposal addressed the Delegation's concerns in part by leveraging existing facilities to minimize cost, such as the meeting rooms and parking spaces that were part of the new construction project. The proposal also indicated that the Secretariat intended to apply the same project management and procurement approaches that had benefited the new construction project, and would use existing contractors where possible. Given the continued effort to contain cost, the potential savings to be realized by undertaking the construction of the conference hall in conjunction with completion of the new construction project, and the potential recoupment of income through leasing of the space to other entities, the Delegation lent its support to the proposal and agreed that Phase Two of the project should go forward, if consensus could emerge on this issue. The Delegation urged the Secretariat to seek ways to reduce the overall cost and to identify additional cost savings in the course of securing tenders for the construction phase of this project.

421. The Delegation of Barbados was of the view that the new conference hall would facilitate greater developing countries participation in the Assemblies meetings. The Delegation said it was one of those developing countries that were allocated one seat last year, which made it difficult because it had three persons willing to intervene on different items. In light of the above, the Delegation supported recommending the execution of the proposed new conference hall to the Assemblies, as described in the document under discussion.

422. The Delegation of Japan recognized some merit in having a larger conference hall, as explained in the working documents. However, in view of the current economic downturn which was not finished yet, it had no choice but to carefully examine the way the Secretariat intended to finance the construction. The document proposed that 24 million Swiss francs be appropriated it from the WIPO Reserves in combination with a commercial loan of 40 million Swiss francs. However, as described in the 2010/11 budget document, there might be a possibility that WIPO might encounter approximately 48 million Swiss francs deficit for the next biennium, if the lower case scenario followed. Under this unstable financial situation and with full prioritized programs requested by Member States, the Delegation was of the view that the necessity of the project should be double-checked. Even if the new hall received a green light, it would be wise to refrain from using a large amount from the Reserves in view of the current financial conditions. In this context, the Delegation wished to seek additional information from the Secretariat on the policy of financing, including any other alternatives the Secretariat might have considered, e.g., whether FIPOI had been contacted to confirm the feasibility of this financing. Otherwise, if the ratio of 24 million *versus* 40 million was the optimized figure, this Delegation wished to underscore that relevant information was indispensable in order for Member States to take an informed decision.

423. The Delegation of France said that given the current state of the information available, the Delegation could not support the project at this stage. First of all, the use of the hall was ensured for the Assemblies, so a maximum of two times a year. After that, it would be for the use of the committees (with 400 to 500 participants) but the Delegation said that in 2008/09 the various committees rarely exceeded 120. Another point in this project to look at was the financial balance. The proposed distribution was one-third to two-thirds with respect to the

Reserves. Perhaps it could be changed to two-third and one-third as Germany had said there were over 22 million Swiss francs that available at the end of 2011. As to the cost of maintenance of the hall, the Delegation believed that this would be 1 % for regular maintenance, i.e., 600,000 Swiss francs, a figure going up to 720,000 Swiss francs. The Delegation wished see a projected income, on a year-per-year basis, for the use of the room, because if the conference room was only used two months per year, it meant that it was available for rent for ten months. In that, the Delegation wondered about relationship with the CICG which was just next door. It said that one would need the project first, then an unofficial listing of the dates of availability so that the room was managed by the CICG, and then the rental fees charged for it. The Delegation thought such information important in order to convince the various delegations that had raised questions to take a definitive stand.

424. The Delegation of India had no specific objection to the construction of the new conference hall. However, it found it curious that the economic crisis seemed to have affected WIPO's work rather selectively. There had been many suggestions and requests regarding the implementation of the Development Agenda, the SMEs and it had been very difficult to find two million Swiss francs because of the economic crisis, the dipping Reserves and revenues of WIPO, but apparently it was not stopping Member States from approving a project for 64 million Swiss francs. The Delegation also had two specific questions: one was on the presentation given by the Secretariat. It was mentioned that in the biennium 2012 there would be a payment towards the loan commitment of WIPO of about 1.6 million Swiss francs and this was to be covered from the regular budget of WIPO. The Delegation remarked that the kind of difficulty seen in obtaining even half a million or one million Swiss francs out of the regular budget did not seem to apply to this particular project. It remarked that if the Reserves were dipped into for the construction project, why payment towards the loan was to be made from the regular budget. The Delegation supposed that there was a budgetary issue and accounting issue involved and requested clarification on that matter. The second question was with regard to a suggestion made by a few delegations at the last PBC informal consultations when delegation requested that alternative options, such as renting or building a hall a little further away, where it would be cheaper, etc. be identified. The Delegation reminded Members that it had supported such proposal, and that this was duly recorded by the Secretariat with a promise to get back on the suggestion. However, the Delegation did not see such written or even oral proposal on other possible options. It requested the Secretariat to clarify this point. It also wished to know whether plans were being made to rent out the new hall when it would not be used by WIPO

425. The Delegation of Angola took note of the presentation made by the Secretariat concerning the new conference hall. Like the Delegation of Senegal, it asked the Secretariat whether it could manage better the financial cost and the other aspects. The Delegation did not have any objections to submitting the proposal for the Assemblies approval. At the same time it asked the Secretariat whether it could, for the next PBC, present the draft of the new policies for utilization of the Reserves, as the delegation felt that they were not managed very well.

426. The Delegation of Egypt thanked the Secretariat for the preparation of the document and the presentation. It supported the position expressed by the African Group. With reference to paragraph 13, the Delegation indicated its concerns on the cost of the proposal. In addition, it requested clarification in respect of the background to the paragraph referring to the advantages of the "*Genève Internationale*" and how developing and Least Developed Countries could benefit from this. It expressed its misgivings with respect to the manner in which the paragraph had been formulated, since it appeared to be too much of a marketing

spin to link the participation of developing and Least Developed Countries to the idea of the “*Genève Internationale*”. It noted that despite Cairo’s role as host to a number of international organizations (the League of Arab States and its specialized agencies; regional headquarters for the WHO, ITU, UNDP, etc), it had never been referred to as “*Cairo Internationale*”. As a host country, Egypt not only provided the land for the buildings of these organizations, but it also supported the construction and even provided premises in some situations. The Delegation stated that they appreciated the continuous support of the Swiss government, as the host of a multitude of organizations of the United Nations, in this regard. The Delegation wished to know, however, whether the Secretariat had engaged in discussions with the host country on the possibility of funding the Conference Hall, so as to prop up and maintain this image of the “*Genève Internationale*”. The Delegation believed there would be a lot of gain, not only for developing and Least Developed Countries, but for all countries and not least, the host country.

427. The Delegation of Australia noted the 20% increase in attendance at WIPO meetings, particularly as the list of observers grew. It requested WIPO to confirm that the new Conference Hall with a proposed capacity of 871 seats plus 29 for the podium would continue to accommodate delegations at future WIPO meetings and conferences in the medium to long-term.

428. The Secretariat stated that currently there were six interpretation booths and in some cases, Portuguese was a language in which interpretation was provided. This meant seven booths for certain WIPO meetings. The reason why more than seven were foreseen in the architect’s project was to ensure flexibility for the future, either in case of the addition of other languages or for rental to external parties, as it could be useful to have more than the strict number of booths required solely by WIPO. Furthermore, in accordance with the applicable standards, nine booths could be accommodated in the future Hall as proposed. In respect of breakout rooms, in the future, Room B, which accommodated more than 80 people, could be used as a breakout room, while currently if there was an Assembly meeting, it would have to be used simply to have the overflow of delegates from the plenary session, and could not be reserved for a breakout room. The Secretariat also added that possibly the configuration of future rooms could be such that it could have movable walls, so that more space could actually be available on occasions.

429. With respect to the question about the UNOG calendar of meetings or events in the last five years, the Secretariat said that it was extremely difficult to obtain this information from the UN website. The Secretariat had looked into the occupation by types of rooms and periods of time that would be feasible for WIPO’s needs. Also, WIPO had its own actual experience over the last ten years with regard to this issue, and could confirm that the last time it could obtain a large meeting room from UNOG, as well as a sufficient number of small rooms, plus offices for the staff and for chairpersons was in 1999. WIPO had never been able to obtain one since then. In connection with WTO room availability, the room at WTO called the “Salle William Rappard” was actually not owned by WTO. It was built by FIPOI and WTO itself did not handle rental of the rooms to other organizations. The Secretariat’s understanding was that the room was quite often used for WTO meetings and in some cases even WTO had to go elsewhere, including to the UNOG or the CICG to hold larger meetings or if there was a need to have two meetings at the same time. Concerning the question of the estimated cost mentioned by the United States Delegation for the architectural study, the Secretariat had already noted at the informal meeting in July that the cost had been reduced by a few hundred thousand francs.

430. On the proposal for the construction of a new Conference Hall, the Secretariat stated that it had taken into account a number of features that were very new and it was thus, up-to-date in terms of UN H-MOSS security, and accessibility standards. The current cost estimate was very up-to-date as it went back to June 2009. Regarding the alternatives, the Secretariat had actually received a response from the host country the preceding week, whereby the latter had expressly stated that they were not in a position to contribute to the new Conference Hall Project. Moreover, the land on which the Hall would be built belonged to the State of Geneva, on which WIPO had a right to build. While the host country could not contribute to the costs of the construction of the new conference hall, it was highlighted that it was contributing to UN H-MOSS implementation for the existing buildings to a level which was commensurate to what it usually contributed to for other organizations in Geneva.

431. In respect of the rental costs of the CICG for one assembly, the Secretariat stated that the cost for the ten days would be approximately 400,000 Swiss francs, or 800,000 Swiss francs for the two assemblies within a biennium. As to a convention with CICG for renting the room to external parties; the document included information in paragraphs 59 and 60 about the possibilities for rental and also the fact that discussions would start in the near future with the CICG on this question. However, the Secretariat underlined that, as was already mentioned in July and earlier in September, the objective of building a conference hall was not for WIPO to make a profit, nor was it the main reason for the proposal. The Secretariat had indicated that it could make the room available to other organizations, to Member States, and to other parties, but the purpose of this would be to ensure optimum utilization for the times when WIPO itself did not need it. The Secretariat continued by saying that it would be difficult to say whether WIPO would use it 60 or 100 days in the year, depending on the programs. Therefore, hypotheses could be drawn, different scenarios too. The Secretariat could not have just one plan in mind, because it would not be very clear for the Member States what the various options were. In response to the question regarding why the Organization would use the regular budget to pay for the interest on the loan, the Secretariat noted that this would simply follow the current situation with the ongoing buildings where the Reserves were not used to pay for the interest. This approach had been approved by Member States back in 2000s on the occasion of the main proposal for the ongoing construction and it had simply been followed in this proposal as well. The difference was that the interest on this loan would be less because the amount of the loan itself would be smaller. The Secretariat spoke about alternative options; such as building elsewhere. This was a response following the questions raised in the July meeting. Some developments on this point could be found in paragraphs 27, 28 and 29 because the questions about building in another country had already been raised and they had been addressed in these paragraphs. The Secretariat remarked that WIPO was here in Geneva and that consequently, WIPO had a Headquarters Agreement with the host country. The Secretariat continued by saying that if WIPO envisaged building elsewhere; some of these matters would have to be revisited. Finally, the Secretariat noted that the new conference hall would serve WIPO for a number of years.

432. The Secretariat further recalled that there was a difference between investments and expenditure, explaining that the investment being proposed was a long-term investment for 50–100 years, or even more. It was emphasized that this was not a recurring outlay, nor something that would entail expenditure of 64 million Swiss francs every year. The investment would be spread over time. It would only be the initial outlay of 24 million Swiss francs which the Secretariat proposed to fund from the Reserves, while all the recurring costs would come from the regular budget. These related to the interest to be paid on the loan, which was currently estimated at 3 to 4 % cent annually, resulting in an average expenditure

of 700,000 Swiss francs per year. The Secretariat also highlighted the recurring saving which would be made with this investment; the cost of the security measures in the CICG for each event which WIPO would hold there would amount to approximately 400,000 Swiss francs. The Secretariat further stated that this was the right time to invest, due to the fact that interest rates were at a historically low level due to the economic crisis. Additionally, as a result of the economic conditions, the public utility companies were seeking work, and would therefore be expected to be in a position to make very interesting proposals for WIPO. With respect to the question of whether to fund the investment from the Reserves or from a loan, it was highlighted that the use of the Reserves resulted in a loss of interest income, as these funds were invested and earning a special rate of around 2.4 % with the Swiss National Bank. The Secretariat recalled that the drawdown for the new construction was done with an applicable interest rate of 3 %, which would be similar to what would be charged at this point in time. While this could not be guaranteed, the choice to pay for the cost of a loan at 3.0-3.2 % rather than to lose 2.4 % in income would ensure that WIPO can finance the object for 50 years without having to draw from the Reserves. This, in turn, will enable the use of the Reserves for other purposes. The Secretariat further explained, in response to the question of the Delegation of Japan, that in the event there would be a deficit of 48 million Swiss francs, the 116 million Swiss francs reserve target level was available to fund such a deficit.

433. The Secretariat noted that the need for a conference hall was clearly a recurring one since 1991. Member States had indeed agreed to the building of a conference hall back in 2002 already. The Secretariat highlighted that in 2009, the questions of needs were being raised again and it appeared that Member States were not being consistent with the decisions that they took. It was noted that if the decision to build this Conference hall was postponed again, the project would come back to the Members States later on and the costs involved would be different and in all likelihood they would be higher. Of course, that would hamper the operation of the Organization. Accordingly, it was underlined that delegations should not be comparing a long-term investment with sums or amounts that are appropriated for budgetary reasons on a yearly basis and which are recurring costs. That would be the difference that the PBC really needed to bear in mind when it would take a decision of this type.

434. The Chair of the PBC read out the decision paragraph from the document under discussion, asking whether the PBC was in agreement with it.

435. The Delegation of France stated that at that stage it was not possible for it to pronounce itself on the project, as it had not received answers that were clear enough on the future use of the conference hall. The Delegation stated that it needed to consider this mode of financing of the conference hall if it were retained, and added that it also needed to specify and make commitments on the policy for the use of this conference hall in the future. While the Delegation understood that it was not the role of the Organization to generate income with the conference room, it nevertheless believed that it was not the role of the Organization either to use its budget in the forthcoming years to pay back the loan and meet the maintenance costs. A need to find a balance in the whole process was highlighted.

436. The Delegation of Spain remarked that it supported the statement by France and that in its view doubts remained with regards to a number of the aspects of the proposal. The Delegation further added that if as a result of the financial crisis there was no increase in income and the loan repayments would need to be made, this would result in WIPO having to reduce the cost of its programs in order to fund the construction costs. Thus, the Delegation underlined that it would be appropriate to know which programs would be reduced in such a

case. It concluded by noting that it agreed with France and could not give its approval at that stage.

437. The Delegation of Germany requested clarification as to whether the PBC had to take a decision or make a recommendation on this issue, since the decision itself needed to be taken by the General Assembly anyway. The Delegation also asked whether or not it would be possible in the limited amount of time left, to possibly address some of the concerns that were raised by a number of delegates.

438. The Chair proposed that given the time constraints, the PBC prepare a recommendation to the General Assembly, which would take note of the report instead of approving it, and transfer it for consideration from the PBC to the Assembly. The Chair underlined that this would leave open the possibility to reopen the discussion at the General Assembly on the various matters that had not received an approval or on which clarifications were not satisfactory.

439. It was then decided that the PBC would take note of the document and transmit it for consideration and final decision by the Assemblies.

440. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO and of the Unions administered by WIPO, each as far as it is concerned, to:

- (i) take note of the proposed New Conference Hall Project as described in document WO/PBC/14/10 (in paragraphs 30 to 38 and Annex II) and in the Architect brochure referred to in paragraph 4;
- (ii) take note of the estimated total cost of 64.2 million Swiss francs, noting that an amount of 4.2 million Swiss francs was already approved by the Assemblies on December 12, 2008, for “Phase One”, as outlined in paragraph 52 and as set forth in Annex IV;
- (iii) consider the proposal to authorize the Secretariat to use, if and when necessary, a Provision for Miscellaneous and Unforeseen in the amount of 4 million Swiss francs, as outlined in paragraph 53 and as set forth in Annex IV;
- (iv) consider the proposal to approve the remaining financing of the Project through an appropriation of 24 million Swiss francs from the WIPO Reserves and a commercial loan in the amount of 40 million Swiss francs, as outlined in paragraphs 56 to 58;
- (v) take note of the management structure, control and audit proposed for the Project, as outlined in paragraphs 42 to 49; and
- (vi) take note of the indicative timetable for the Project, as referred to in paragraph 41 and as set forth in Annex III.

ITEM 16 OF THE AGENDA  
ADOPTION OF THE REPORT

441. The Chair noted that the Agenda had been exhausted. He said that the Secretariat would produce a summary of decisions taken at the session, which would be conveyed to the General Assembly on behalf of the PBC. He added that the full report of the session would reflect all comments and proposals made.

442. The Delegation of India said that such a summary of decisions would obviously not reflect the narrative amendments to the Program and Budget document. Therefore, it wished to receive confirmation with respect to the timing of the availability of a revised budget document.

443. The Chair confirmed that the Secretariat would not be in a position to revise the budget document before the Assemblies. He added that a summary of decisions and a separate document listing the amendments proposed for each of the programs would be made available right away. He also confirmed that those amendments would be incorporated in the final document that would be published following the Assemblies approval.

444. The Delegation of Egypt requested to place on record its wish that the future sessions of the PBC be held sufficiently in advance of meetings of decision-making bodies in order to ensure that documentation of discussions could be appropriately performed.

ITEM 17 OF THE AGENDA  
CLOSING OF THE SESSION

445. The Chair, in closing the discussions, said that the Secretariat would make a list of the items that had not been addressed during the PBC session but which were on the agenda. He added that these items would be conveyed to the General Assembly for consideration.

446. The Program and budget Committee decided that the remaining Agenda items (items 10, 11, 13 and 15) would be transmitted directly to the Assemblies of the WIPO Member States for their consideration.

447. The session was closed.

[Annex I follows]