

## **Program and Budget Committee**

**Twenty-Second Session**  
**Geneva, September 1 to 5, 2014**

REPORT

*adopted by the Program and Budget Committee*

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1. The 22<sup>nd</sup> session of the WIPO Program and Budget Committee (PBC) was held at the Headquarters of WIPO from September 1 to 5, 2014.
2. The Committee is composed of the following Member States: Algeria, Argentina, Azerbaijan, Bangladesh, Belarus, Benin, Botswana, Brazil, Cameroon, Canada, Chile, China, Colombia, Croatia, Czech Republic, Ecuador, El Salvador, Ethiopia, France, Gabon, Georgia, Germany, Greece, Guatemala, Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Kyrgyzstan, Mexico, Morocco, Pakistan, Paraguay, Poland, Republic of Korea, Romania, Russian Federation, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland (*ex officio*), Turkey, United Kingdom, United States of America, Viet Nam (53).
3. Members of the Committee represented at this session were: Algeria, Argentina, Azerbaijan, Bangladesh, Belarus, Benin, Brazil, Cameroon, Canada, Chile, China, Colombia, Croatia, Czech Republic, Ecuador, El Salvador, Ethiopia, France, Georgia, Germany, Greece, Guatemala, Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Morocco, Pakistan, Paraguay, Poland, Republic of Korea, Romania, Russian Federation, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland (*ex officio*), Turkey, United Kingdom, United States of America, Viet Nam (50). In addition, the following States, members of WIPO but not members of the Committee, were represented as observers: Angola, Armenia, Australia, Bahamas, Barbados, Belgium, Bosnia and Herzegovina, Burkina Faso, Burundi, Comoros, Dominican Republic, Finland, Ghana, Holy See, Ireland, Jamaica, Jordan, Latvia, Lithuania, Libya, Madagascar, Malaysia, Mauritania, Monaco, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Nigeria, Panama, Peru, Portugal, Republic of Moldova, Senegal, Serbia, Sierra Leone, Thailand, Togo, Trinidad and Tobago, Ukraine, United Republic of Tanzania, Venezuela (Bolivarian Republic of), Yemen, Zambia, Zimbabwe (47). The list of participants appears in the Annex to this document.

## **ITEM 1    OPENING OF THE SESSION**

4. The session was opened by the Director General.
5. The Director General welcomed delegates to the 22<sup>nd</sup> session of the PBC. He noted that these were the first official words to be spoken in the new conference hall and he said that, while there were some minor elements to be finished in the coming weeks, the conference hall had been completed on schedule and this was, indeed, an occasion for celebration. The Director General expressed appreciation to all his colleagues who had been involved in the construction, which had been a challenging project over the course of three years. While it had been a team effort, he made particular mention of the contributions of Assistant Director General, Mr. Ambi Sundaram, and of the Director, Premises Infrastructure Division, Ms. Isabelle Boutillon. The Director General said that, while these might be the first words to be spoken in this construction, there would be many more words in the coming months and years. He noted that the word 'construction' is related to the word 'constructive'. He expressed his hope that the new construction would be a place of constructive dialogue about the role, the value and the contribution of intellectual property to economic and social development, and about the role of WIPO in this larger question. The Director General thanked all delegations for their very constructive engagement in the preparations for this session of the PBC, including through the informal consultations which had taken place mainly during August. The Director General then pointed to some of the highlights of the performance of the Organization during the course of the last biennium (2012 to 2013) with respect to the expected results as agreed by Member States. He noted that over 70 per cent of the indicators of program performance had been assessed, independently, as having been fully achieved. This was pleasing and the Director General stated that he wanted to see this percentage rise in the future. With respect to the financial results of the Organization, the Director General noted that the biennium (2012 to 2013) had been very positive. There was an overall surplus of some 34.6 million Swiss francs on an income of 680 million Swiss francs, which was 5.1 per cent above the budgeted

figure for revenue for the biennium. On the expenditure side, WIPO had spent 612 million Swiss francs, which was 5.6 per cent below the budgeted figure and, as such, was another very positive result. This lower level of expenditure was achieved through a range of cost efficiencies and productivity gains, including in the area of investment in IT systems and the introduction of new management services and tools. The Organization had also judiciously used outsourcing, in particular to control the rise in staff costs which was a matter on which Member States had expressed their concern. The Director General pointed out that there was considerable outsourcing in some areas, notably in the areas of translation and the development of IT systems. This had required the Organization to build expertise for contract monitoring, which otherwise would not have been the case. Regarding the Organization's reserves, the Director General noted that net assets stood at 209 million Swiss francs, which was above the target level. He noted that there were two policy questions that needed to be put before delegations in this regard. The first was WIPO's investment policy. The Organization's finances and reserves were considerable and he felt that it was time to be more serious, more rational, and more professional about the level of return on investments while, of course, remaining extremely prudent. The Director General underlined that it was a question of balance aimed at achieving an appropriate value on investments. On the one side, risk had to be contained in light of the fact that the higher the risk, the higher the return or loss, as the case may be. On the other side, if nothing was done, the reserves would lose value every year. Consequently, the Director General pointed out that this was a very serious question for the financial management of the Organization. The Director General noted that the second question before delegations related to the rationalization of the way in which the Organization's reserves were presented. In particular, this raised the question of the Working Capital Funds which, the Secretariat believed, should not be there since they had originally been borrowed from Member States to finance the start-up of WIPO's global IP systems. The Director General felt that it was time to close this episode in the Organization's financial history, which would result in a simplification of WIPO's financial management. He added that this would come up for decision in 12 months' time. The Director General also stated that the Secretariat hoped that Member States would look again at the question of the target level of the reserves of the Organization which could, perhaps, benefit from being raised. The Director General said that the final area that he wished to mention briefly was risk management. This was an area in which there had been great movement since the last session of the PBC. He recalled that risk management was one of the subjects of the Strategic Realignment Program (SRP), and that it had not been completed within the SRP as had been intended or planned. It had been part of the current mode of continuous improvement which had replaced the SRP. He noted that WIPO had made good progress and had developed a risk appetite statement and established a policy for risk management, including a Risk Manual for managers and staff. In conclusion, the Director General expressed thanks to the Independent Advisory Oversight Committee (IAOC) for all of its work in the course of the past 12 months and acknowledged the two representatives of the IAOC who were with the PBC for this session.

## **ITEM 2 ELECTION OF THE CHAIR AND TWO VICE-CHAIRS OF THE PROGRAM AND BUDGET COMMITTEE**

6. The Director General opened the floor for nominations of the Chair and two Vice-Chairs of the Committee.

7. The Delegation of the Czech Republic thanked the Director General for his remarks. The Delegation added that the new conference hall projected not only the sense of newness but also the sense of constructiveness and consensus building referred to in the Director General's statement. In that spirit, the Delegation wished to nominate H.E. Mr. Gabriel Duque, the Ambassador of Colombia as the Chair of the PBC. The Delegation also nominated Mr. Xavier Bellmont Roldan (Spain) and Mr. Wojciech Piątkowski (Poland) to serve as the Vice-Chairs.

8. The Delegation of Japan, speaking on behalf of Group B, congratulated the Director General on the completion of the new conference hall. Group B wished to support the proposal for the Chair and the Vice-Chairs put forward by the Delegation of the Czech Republic.

9. The Delegation of Paraguay, speaking on behalf of the Group of Latin America and the Caribbean Countries (GRULAC), thanked the Director General for his introductory statement and congratulated him and the Secretariat on the completion of the new conference hall. GRULAC also wished to thank other regional groups for their support of the candidature of Ambassador Gabriel Duque to preside over the PBC. The Group was convinced that Ambassador Duque's academic training and professional experience would enable him to successfully carry out the functions of the chair. GRULAC also supported the candidates from Spain and Poland to serve as the Vice-Chairs.

10. The Delegation of the Republic of Korea endorsed the proposal for the Chair and the Vice-Chairs. It also congratulated the Organization on the completion of the new conference hall.

11. The Program and Budget Committee elected Ambassador Gabriel Duque (Colombia) to be the Chair of the Committee; Mr. Xavier Bellmont Roldan (Spain) and Mr. Wojciech Piątkowski (Poland) were elected the Vice-Chairs of the Committee.

12. The Chair thanked all delegations, specifically the members of GRULAC, for the support and the confidence that they had shown in electing him to preside over the PBC. The Chair also congratulated the two Vice-Chairs and expressed hope that the three of them would work constructively together over the course of the week to ensure a successful outcome of the session.

### **ITEM 3 ADOPTION OF THE AGENDA**

13. Discussions were based on document WO/PBC/22/1 Prov.

14. In introducing the draft agenda, the Chair commented that, as had previously been the case, in order to facilitate the Committee's discussions the agenda items were grouped into five categories. The first group of subjects was audit and oversight; the second group was devoted to program performance and financial reviews; the third contained the different proposals that had been put forward; the fourth, the subjects referred to the PBC by the 2013 Assemblies of WIPO Member States; and the fifth comprised progress reports on major projects and administrative matters. The Chair invited delegations to take note that Australia, Finland, New Zealand, the Holy See and Finland had requested that a new agenda item be added to the draft agenda. Detailed information on the proposal from those delegations could be found in document WO/PBC/22/24, entitled "Participation of Accredited Indigenous and Local Communities in the Work of the Intergovernmental Committee on Intellectual Property and Genetic Resources and Folklore (IGC): Proposal for Subsidiary Funding from the Regular Budget of WIPO." The request in question had been circulated to all members through a *note verbale*. The Chair invited comments on the proposed draft agenda.

15. The Delegation of Kenya, speaking on behalf of the African Group, congratulated the Chair and the two Vice-Chairs on their election. The Delegation requested that an additional agenda item be added to the draft agenda, i.e., an item regarding the contribution of the PBC to the implementation of Development Agenda (DA). Regarding agenda items 9 and 20, the Delegation wished to discuss proposals listed under agenda item 9 during the discussion on agenda item 20. The African Group explained that those proposals had been part and parcel of the many proposals that had been forward on governance and therefore it would be more efficient to have a discussion on that particular topic once, under item 20, not twice (under two separate items).

16. The Chair responded that it was his understanding that, at this stage, a new agenda item could not be added. However, placing discussion on document WO/PBC/22/26 under item 20 would be reflected in the proposed timetable. The Chair requested the Delegation of Kenya to clarify its proposal for a new agenda item.

17. The Delegation of Kenya responded that its proposal was to add an agenda item, which had been requested before and which had also been done in other committees, on the contribution of the PBC to the implementation of the DA Recommendations. The purpose was to fulfill the 2010 mandate of the DA: for all relevant WIPO bodies to report to the GA on their contribution to the implementation of the DA Recommendations. That was the reason why the Delegation was requesting an *ad hoc* addition, at this particular time.

18. The Delegation of Iran (Islamic Republic of) congratulated the Chair on assuming the chairmanship of the PBC, which was one of the most important bodies of the WIPO. The Delegation was confident that under the Chair's able leadership, the outcome of the present session would be successful. The Delegation also thanked the Secretariat for its hard work in preparing the session. The Delegation supported the statement made by the African Group and wished to highlight the importance of the PBC being a part of the coordination mechanism established by WIPO GA, and consequently reporting to the General Assembly (GA) and the Committee on Development of Intellectual Property (CDIP) on its contribution to the implementation of the DA Recommendations. The Delegation added that, although some Member States did not consider the PBC a relevant body for the purpose of the coordination mechanism of the DA, the Delegation believed that the PBC played a wider role in the Organization and was responsible for many decisions that impacted development, e.g. the allocation of resources. Including the PBC in the mechanism would be consistent with the goal of mainstreaming development throughout WIPO. The Delegation hoped that the PBC would report on the implementation of the DA Recommendations and invited all delegations to reach a conclusion on the matter in time to ensure mainstreaming of development activities throughout all WIPO work and programs.

19. The Delegation of Japan, speaking on behalf of Group B, wished to congratulate the Chair and the Vice-Chairs on their election. Group B proceeded to thank the Secretariat for the tireless preparation of the session. With respect to the proposal for the addition of a new agenda item put forward by the Delegation of Kenya, Group B was not in a position to accept such a proposal because Group B, as was well known, considered that the PBC was not a relevant body of the coordination mechanism. The Delegation added that, so far, according to the Delegation's knowledge, such agenda item had not been included, even on an *ad hoc* basis, in the agenda of this Committee. The Group hoped that the current discussion would not negatively affect the smooth advancing of discussions of the Committee. With respect to the issue of governance and related documents, the Group shared the opinion that discussion on them should be streamlined under one of the agenda items.

20. The Delegation of India conveyed its congratulations to the Chair, expressing confidence in the Chair's leadership to guide the work of the session in order to make progress on the various agenda items. At this stage, the Delegation wished to restrict its comments to the proposal made by the African Group. The Delegation wholeheartedly supported this proposal and thought that it was only fair that the PBC, which was an important committee and a part of the governing structure of the Organization, should be able to discuss and report to the Assemblies on the implementation of the DA.

21. The Delegation of the Czech Republic joined previous speakers in congratulating the Chair and the two Vice-Chairs on their election. The Delegation recalled that the item suggested by the African Group had not been on the agenda of the previous session of the PBC. Moreover, Member States had not been made aware of any requests for an additional agenda item in accordance with the Rules of Procedure. Therefore, it was somewhat difficult for the Delegation to react to the proposal right then. At the same time, it had been a long-standing

position of the Delegation, shared by other members of the CEBS Group that, while the Delegation fully shared the notion expressed by the Delegation of India that the PBC was an important committee, the Delegation did not consider the PBC to be a relevant body with respect to the coordination mechanism for the DA.

22. The Delegation of Brazil joined other delegations in congratulating the Chair and the two Vice-Chairs on their election. The Delegation fully supported the proposal made by the African Group. Recalling its interventions at the last PBC session, the Delegation considered the PBC a relevant body in relation to the implementation of DA. Therefore, it was important that Members discussed its role according to the coordination mechanism.

23. The Delegation of Pakistan joined other delegations in congratulating the Chair and the Vice-Chairs on assuming their positions in the Committee. The Delegation believed that the PBC was an important organ of WIPO, especially with respect to resource allocations. Therefore, the Delegation supported the proposal put forward by the African Group.

24. The Chair invited the Legal Counsel to deliver his opinion on introducing a new agenda item at such a late stage, especially since there was no agreement within the membership to do so.

25. The Legal Counsel explained that, under the Rules of Procedure, agenda items were expected to be submitted one month before the meeting of the committee concerned. The Legal Counsel recalled that, in the past, there had been occasions where the committee concerned had agreed to accept additional agenda items proposed on the day the meeting had taken place. Since at the present session there did not seem to be an agreement to add a new item to the agenda, the Legal Counsel proposed that the PBC adopt the agenda as presented, with the understanding that the Chair would consult with Member States, in the course of the present and the following day, with a view to deciding how best to approach the proposal made by the African Group.

26. The Chair proposed that the draft agenda be adopted as presented and confirmed his availability for informal consultations regarding the African Group's proposal. There were no further comments and the draft agenda was adopted.

27. The Program and Budget Committee adopted the agenda (document WO/PBC/22/1).

28. In presenting the timetable of discussions, the Chair pointed out that the agenda for the session was very full and added that the opportunity before Member States was to ensure that, as a membership, they engaged constructively and directly on the issues and questions before the Committee so that, with the support of the Secretariat, the work could move forward rapidly. The Chair recalled that the Secretariat had organized a briefing session for each regional Group the previous week. The Chair proceeded with the presentation of the proposed schedule of discussions. Firstly, the Chair stressed that the efficiency of work and the timeliness of the start of each meeting were of high priority: each morning session would at 10 a.m. sharp, going until 1 p.m. and resuming at 3 p.m. Members should collectively endeavor to avoid night sessions, as many Member States had strong reservations on the value and the productivity of such sessions. Secondly, some delegations might wish to make general statements and the Chair believed that the PBC would greatly benefit from listening to them. However, he requested delegations to bear in mind that the agenda was very heavy and that there would be an opportunity for delegations to contribute to every item when it was brought up. Therefore, he encouraged all Groups and Member States wishing to make general statements to share the essence of their respective statements briefly and provide the full statement to the Secretariat for inclusion in the session report. He announced that Group Coordinators would be the first to make general statements. The Chair then referred to the proposed timetable of discussions. The proposed timetable broadly followed the sequence of the agenda items. However, item 21 on external offices would be taken up on Tuesday afternoon, when Ambassador Fitschen would



be available to present the document on the topic. The Chair also proposed that agenda item 20 on governance be taken up after the discussions on the Joint Inspection Unit's (JIU) Management and Administrative Review and the proposal on efficiency (agenda item 9), as the JIU report contained recommendations regarding the governance framework. Items 5, 11, 12, and 16, which dealt with interrelated financial matters, would be taken up on Thursday morning when the External Auditor would be present. Lastly, the Chair was conscious of the need to reach conclusions on all agenda items. In this context, the Chair was aware that items 20, 21, and 22 of the agenda had been referred to the PBC by the decisions of the WIPO GA and would need to be progressed upon so that the PBC could submit its recommendations to the Assemblies in that respect. Being aware that there were different positions on the items in question, the Chair strongly encouraged an approach whereby Members consulted on those topics on an informal basis, including through the Regional Coordinators, so that good progress could be made for when they were taken up by the plenary. The Chair emphasized that both he and the Vice-Chairs were at the memberships' disposal for informal discussions and consultations during the week, in order to reach the shared objectives.

29. The Delegation of Iran (Islamic Republic of) believed that half a day allocated to items 20 and 22 was insufficient to discuss the two important issues and fulfill the mandate given to the PBC by the GA.

30. The Chair concurred and explained that this was why he encouraged informal consultations, which should start right away, and had offered to coordinate them. The Chair proposed that the Vice-Chairs could also assist in the discussions so that when the Committee addressed those points in the plenary on Wednesday, it would still have time to make further progress towards the end of week. In addition, the timetable indicted Friday as the day for dealing with any pending items not resolved earlier in the week.

31. The Chair opened the floor for general statements.

32. The Delegation of Kenya, speaking on behalf of the African Group, congratulated the Chair and the two Vice-Chairs on their election. The Group was confident that under the Chair's wise leadership the Committee should be able to conclude its work in the most efficient and fruitful manner. The African Group hoped that the Committee would use its time efficiently so that due consideration could be given to all agenda items. The work was made easier by the number of reports before the Committee, such as the JIU report on the review of the management of WIPO, the External Auditor's report, and the Internal Audit and Oversight report that made specific recommendations on various issues before the Committee. The Group noted that a number of issues on the agenda had been referred back to the PBC by the 2013 GA and hoped that, this time around, Members would be able to muster the political will to conclude them. Therefore, the Group wished to highlight a number of issues, that it considered of critical importance. First was the need to conclude the discussions on external offices (EOs). During the last PBC, the Secretariat had proposed to open five EOs: two in Africa and one in each, China, the Russian Federation and the United States of America. Two of the EOs had already been opened and the Group hoped that the present session of the PBC would conclude the discussions to enable opening of two EOs in Africa. The African Group remained constructive in the deliberations on EOs and wished to thank Ambassador Fitschen for his leadership during the said round of consultations. While Members could not present a clean text of the Guiding Principles to the Committee, the work done had helped clarify and provide comfort to those delegations that had expressed some concerns with the text. The Group hoped that the new issues introduced during the consultations could be dealt with separately and that the offices in Africa could be opened without further delay. In this regard, the African Group wished to reiterate its position on the matter. For the Group, the Guiding Principles, the numbers and the locations of EOs were intertwined and could only be adopted as a package. The Group therefore hoped that, during the present session, the membership would be able to conclude the two issues and that the PBC would be able to recommend to the GA the adoption of the Guiding Principles and pave the way to the opening of two EOs in Africa. Secondly, with

regard to governance at WIPO, the Group noted a particular recommendation made by the JIU, i.e., that the GA should review WIPO's governance framework with the view to strengthening the capacity of the governing bodies in guiding and monitoring the Organization. The report made specific suggestions on how to address the matter. The African Group and other Member States had made various proposals on this subject and hoped that the PBC and, indeed, the GA, would give the issue the serious consideration it deserved. It was therefore the Group's hope that a working group would be constituted, or informal consultations would be held to discuss all proposals presented by Member States, the JIU and other bodies' recommendations, with a view to making a concrete recommendation to the GA. Thirdly, regarding the issue of geographical distribution within the Secretariat; the Group said that a number of countries were under-represented. The JIU had made specific recommendations in this area and the Group hoped that the Secretariat would implement them promptly to remedy the situation. Fourthly, regarding the issue of the proposed definition of development expenditure; the Group noted with concern the failure to reach agreement on the matter, which had resulted in insufficient resources being channeled to the DA. The Group hoped that an agreement could be reached on the definition so that it could be applied to the 2016/17 Program and Budget. Regarding the funding for indigenous and local communities to participate in the work of the IGC, the Group noted that the IGC was at a critical juncture and considered the participation of indigenous and local communities in the IGC process very important. The African Group hoped that the PBC would be able to find a way to fund it, in addition to the regular budget.

33. The Delegation of China congratulated the Chair and the Vice-Chairs on their election. The Delegation believed that under the Chair's leadership the current session would achieve its expected results. The Delegation also took the opportunity to congratulate WIPO on the opening of new conference hall. It added that it felt honored and pleased to be able to take part in the present PBC session. It stated that, since the last PBC session, WIPO had made progress in all areas of work, improving the internal management coordination and oversight. This had been fully reflected in the agenda of the session, which included, among other items, an item on the revisions to the Internal Oversight Charter and an item on the accountability framework, which the Delegation appreciated. It believed that strengthening internal management and increasing efficiency were conducive to achieving the Organization's strategic goals, which would also benefit all Member States. The Delegation thanked the Secretariat for the preparation of very comprehensive working documents and added that all official documents had been provided in the six UN languages. Furthermore, the objective of extending six language coverage to working groups had been implemented, including the PCT Working Group and the Working Group on the legal developments in the Hague System. This demonstrated the importance that the Organization attached to the language issue. It also facilitated taking part in the discussions in a more efficient way by all Member States. The Delegation said that it would continue to take part in the discussions of all agenda items in an open and constructive manner and hoped that the session would achieve constructive results.

34. The Delegation of the Republic of Korea, speaking on behalf of the Asia and the Pacific Group, extended its congratulations to the Chair and the Vice-Chairs and expressed confidence in the Chair to guide the efforts of the session towards a constructive conclusion. The Group also thanked the Secretariat for the hard work put into the preparation of the session's documents. In examining the documents on the table, the Group recognized an especially meaningful and important document, which could compel Member States to think differently on the key points regarding the future of the Organization. The document in question was the "Review of the Management and Administration in WIPO" conducted by the JIU. The Group found it important for the PBC to review the content of that report. The Group appreciated the JIU inspectors' excellent work and the sincere effort put into the preparation of the report. Regarding the Program Performance Report for 2012/13 (PPR), the Group took note of the assessment that 72 per cent of performance indicators were rated as fully achieved and only 8 per cent were assessed as not achieved. Performance was generally positive, considering that this was the first performance review based on the results-based budget. The Group also emphasized that the Secretariat should implement the recommendations made in the IAOD

Validation Report. With regard to the Report by the External Auditor for the financial year 2013, the Group had taken note of the substantive observations and the specific recommendations regarding delivery of various programs and activities by the Management of the Organization. The Group thanked the External Auditor for the continuous meticulous work and looked forward to participating in further discussion on this agenda item. The Group also noted that there was some progress regarding geographical representation within WIPO staff, as well as efficiency of the workforce. However, considering that the numbers of global IP services users were increasing in Asia and the Pacific, it seemed that the representation from that geographical area should be progressively encouraged. With regard to the proposed revisions to the Internal Oversight Charter, the Group appreciated that the IAOC had proposed the revisions in question with the view to ensuring easier access by Member states to internal audit and evaluation reports through the WIPO web site. The Group saw this as a significant progress, which it fully supported and encouraged. It was not clear, however, whether Member States would have the opportunity to access investigation reports, if there was a sincere interest in doing so. Further discussion on the revisions to the provisions regarding investigation reports would advance the process of establishing WIPO as a Member States driven organization. The Group commented that the issue of governance at WIPO could be a “hot issue” at the present session as the matter was also raised in the JIU report. The Group believed that finding solutions to this issue was still uncertain, adding that it would require sufficient time and deep trust among Member States. Therefore, members of the Group would work towards contributing positively during the session. In respect of the definition of development expenditure, the Group’s position was to follow up on the consensus reached at the 51<sup>st</sup> meeting of the Assemblies and conclude discussions with the consensus. Regarding the EOs; firstly, the Group wished to extend its appreciation to Ambassador Fitschen of Germany and added that it greatly appreciated the proposals discussed during the last consultations on the Guiding Principles on WIPO EOs. The Group hoped that, based on the consensus reached, Members would proceed further. Regarding the proposal for subsidiary funding of participation of indigenous and local community representatives in the IGC sessions, the Group was aware of the importance that the interested parties attached to obtaining reasonable and accessible conclusions on this issue. Lastly, with regard to the proposal for increasing efficiency in WIPO meetings, the Group agreed, in principle, with the intentions of this proposal. Along these lines, the Group hoped that the Committee would be able to arrive at a positive consensus on this matter. Being well aware of the importance of the need for constructive dialogue during the session, members of the Group would make comments on each agenda item.

35. The Delegation of Paraguay, speaking on behalf of GRULAC, expressed satisfaction with seeing a representative from its region leading the work of the PBC. GRULAC reiterated its willingness to work constructively with the Chair on the issues before the Committee at the present session and in the future. GRULAC had read through the session documents and wished to specifically thank the Secretariat for its hard work and dedication in preparing the documents, especially for having documents available in Spanish, one of the official languages of the Organization. GRULAC also thanked the Secretariat for organizing briefing sessions for the regional Groups, which had been very useful and had helped Member States better understand the issues as well as providing an opportunity for asking pertinent questions on issues of interest so the Secretariat’s answers might be transmitted to the authorities in the capitals. There was a great deal of work to be done at the present session and, therefore, GRULAC would be making more detailed statements as different agenda item were discussed, specifically items 13 (HR report), 16 (amendment to the policy on investments), as well as agenda items 21 (external offices) and 27 (language policy).

36. The Delegation of the Czech Republic, speaking on behalf of the Group of Central European and Baltic States (CEBS), congratulated the Chair and the Vice-Chairs on their election. The Group wished the Chair much success in the coming week and beyond. The CEBS also congratulated the Secretariat on the great work done in preparing the session and thanked the Secretariat for the good work done in preparing comprehensive and clear documents for a very heavy agenda. The Group regretted that the large number and the size of

those documents were somewhat detrimental to the quality of the overall preparations. The CEBS recalled that it had welcomed and appreciated the adoption of the 2014/15 Program and Budget, which adequately reflected the ideas and needs of Member States and the planned activities of WIPO. The Group added that it paid great attention to its ongoing implementation. Referring to the agenda of the present session, the CEBS Group stated that it attached great importance to the implementation of the IAOD and the JIU recommendations. The Group welcomed the “Progress Report on Implementation of the JIU Recommendations” as well as the “Proposal by the Delegations of Belgium, Mexico and Spain: Increasing Efficiency in WIPO Meetings.” It also shared the view expressed in the proposal i.e., that the efficiency of WIPO meetings had been decreasing in recent years. The proposed measures could improve the current situation and the Group looking forward to the discussion on this topic. The Group added that it could support the proposed revisions to the Internal Oversight Charter, which contributed to the fulfilment of the IAOD’s goals. The CEBS Group welcomed the 2012/13 Program Performance Report (PPR) and the IAOD Validation Report on the PPR. The Group appreciated the progress achieved in the implementation of the goals and performance indicators in comparison with the previous reporting period. The report’s presentation of performance results was more understandable and transparent. The CEBS Group believed that this trend would continue in the current biennium and that the Secretariat would implement the five IAOD recommendations, which would undoubtedly contribute to higher efficiency in the management and the evaluation of programs. The CEBS Group welcomed the Secretariat’s proposal to move to a comprehensive and integrated Biennial Performance Report and said it would like the Secretariat to submit a detailed proposal on the format and the content of such a report at the PBC’s next session, taking into consideration Member States’ feedback through a structured survey. The Group affirmed that it paid attention to the Review of WIPO’s Financial Situation and its Policies Related to Reserves. The arguments presented in that document, supported by the opinion of the External Auditor, and the outlined measures should contribute to strengthening of WIPO’s financial stability. As to the WIPO governance issue, the Group continued to share the view that it was not necessary to establish any new body. The Group supported the efforts towards strengthening and deepening efficiency and improvement of the existing structure of WIPO. The Group also affirmed that it always stood ready to engage in a meaningful discussion on the topic of WIPO’s network of EOs, stressing once again its strong position that the Guiding Principles represent not a piece of paper but a vital long-term strategic component in this issue and thus must be finalized prior to any next steps. The Group continued to request a functional and value-adding network of the EOs. The Group also expressed belief that the PBC should spearhead the collective effort to run meetings efficiently and effectively, without unnecessary delays and overtime. In closing, the Group stated its readiness to participate, in a flexible and constructive manner, in the Committee's debate.

37. The Delegation of Japan, speaking on behalf of Group B, joined in the congratulations to the Chair and the expression of thanks to the Secretariat, and added that it fully shared the sentiment that the current session’s heavy agenda had to be tackled in an efficient manner and that punctuality was an important element of that. The Delegation informed the membership that Group B would deliver a statement on each substantive agenda item.

#### **ITEM 4 REPORT BY THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE (IAOC)**

38. Discussions were based on document WO/PBC/22/2.

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

“My name is Mary Ncube. I am Vice Chairperson of the WIPO Independent Advisory Oversight Committee. Together with my colleague, Mr. Gábor Ámon, we are here to represent the IAOC on this important occasion of the 22<sup>nd</sup> session of the PBC.

“Firstly, I would like to congratulate you on your election as the Chair of the PBC, and to congratulate the Vice Chairs.

“I am pleased to introduce the IAOC’s Annual Report covering the period from September 1, 2013 to August 31, 2014. During this period, the Committee met in session four times. The full text of our Annual Report is contained in document WO/PBC/22/2.

“Allow me now to highlight some of the salient issues relating to the work of the Committee during the last twelve months. I will firstly address the issue of the Committee’s mandate, its membership and its working methods. The mandate of the IAOC states that the Committee “is an independent, expert advisory and external oversight body established to provide assurance to Member States on the appropriateness and effectiveness of internal controls at WIPO. It aims to assist Member States in their role of oversight and to better exercise of their governance responsibilities with respect to the various operations of WIPO.”

“The IAOC has a membership of seven. During the reporting period, a rotation of IAOC membership took place in accordance with the procedures approved by the General Assembly. The Committee welcomes the three new members, namely Mr. Gábor Ámon, Mr. Egbert Kaltenbach and Mr. Zhang Guangliang and thanks the three members who left the Committee, namely Ms. Beatriz Sanz-Redrado, Mr. Kjell Larson and Mr. Ma Fang. The Committee elected Mr. Fernando Nikitin and Ms. Mary Ncube, myself, as Chairperson and Vice Chairperson respectively, for a period of one year, in accordance with the Committee’s Terms of Reference and Rules of Procedure.

“In discharging its functions, the IAOC met and interacted with the Director General during three of its sessions and with the Director of IAOD at each quarterly session. We also met and interacted with relevant senior officers of WIPO, the External Auditor and a Joint Inspection Unit team.

“I will now address you on the issue of oversight; firstly, external audit. In line with its terms of reference, the IAOC exchanges views with the External Auditor and also provides comments to the PBC on the External Auditor’s report to facilitate the PBC’s report to the General Assembly. The IAOC met with the External Auditor at its 32<sup>nd</sup> the 34<sup>th</sup> sessions to discuss the External Auditor’s audit work plan for 2014/15 and to review the report on the 2013 Financial Statements, respectively. The Committee, during its 34<sup>th</sup> session, provided suggestions to the External Auditor for enhancing the External Auditor’s report, and to Management to aid a better appreciation of the risk exposure and level of priority of the recommendations made.

“Some recommendations made by the External Auditor, which were discussed at length with the Management, include: (1) the need for the creation of a separate reserve for the purposes of financing projects and improvement to the disclosure of reserves in the financial statements; (2) the need for improvement in the maintenance of accounting data relating to PCT fees received and receivable; (3) the need for the development of standard operating procedures for formulation of country assistance plans; and (4), the need for all future proposals for construction projects to be accompanied by a cost benefit analysis of the proposed investment.

“I will now address you on the Financial Statements. The IAOC reviewed with Management the financial statements for the year ending December 31, 2013 and noted the unqualified audit opinion expressed by the External Auditor. The Committee continued its dialogue with Management on the use of WIPO reserves, and their disclosure in the Financial Statements, and welcomes the efforts made by Management in PBC document WO/PBC/22/28 to better clarify this matter.

“In relation to the Program Performance and Financial Review, the Committee noted improvements in the quality of information contained in the Program Performance Report for the 2012/13 biennium, which is contained in document WO/PBC/22/8. We had noted with concern the number, the volume and the duplication in the content of the reports being submitted in the area of finance and program performance review. We therefore welcome the Secretariat’s proposal to reform and enhance program performance and financial reporting, as contained in document WO/PBC/22/27.

“The Internal Audit and Oversight Division: Under its terms of reference, the IAOC reviews the effectiveness of WIPO’s internal audit function, promotes the coordination of the internal and external audit functions and monitors the implementation of audit recommendations. The IAOC noted with satisfaction that the Internal Audit and Oversight Division’s 2013 workplan was fully implemented and that the 2014 workplan was on track.

“The internal audit and the evaluation functions of IAOD were subject to external quality assessments during the period. The IAOC is pleased with the positive reports that were issued on these assessments and looks forward to reviewing the implementation of recommendations raised.

“During the period under review, the Committee reviewed eight internal audit reports. Of note is a report on management of staff benefits and entitlements which raises a number of internal control issues and financial implications which the Committee would like Member States to take cognizance of.

“In relation to the investigation function, the Committee was briefed regularly on the caseload and the results of investigations. The Committee further welcomes the fraud risk assessment made by the IAOD and expects that it will lead WIPO to intensify its efforts to enhance the prevention, deterrence and detection of fraud and corruption.

“In relation to the JIU reports, the Committee is pleased that the Management has already put in place action plans to address the issues raised. The Committee further noted that there was progress in the implementation of older recommendations that were raised by the JIU. We will continue to monitor progress in our subsequent meetings.

“Follow-up on oversight recommendations: The Committee continued to follow up on oversight recommendations made by itself, the External Auditor, the IAOD and the JIU, and made a number of recommendations to refine and strengthen the follow-up process.

“Proposed revisions to the Internal Oversight Charter: In consultation with the Director, IAOD, the IAOC undertook a review of the Internal Oversight Charter and proposed certain revisions, as contained in document WO/PBC/22/22. The principal proposed changes which the Committee believes will strengthen and improve the quality of internal oversight include: (1) the insertion of a new section on ‘conflict of interest’, which addresses various situations of potential conflicts of interest, in particular with regard to investigations; (2) extending the possibility for complaints of alleged misconduct to ‘any other internal or external party’; (3) granting public access to the IAOD audit and evaluation reports with a provision for exceptionally redacting or withholding reports on specific grounds; and (4) clarifying the provision for dismissal of the Director, IAOD to relate only to specific grounds.

“During its 34<sup>th</sup> session, which was held two weeks ago, the Committee met and exchanged views with two Member State delegations that made submissions to the IAOC relating to the proposed revisions to the Internal Oversight Charter. The Committee found the interactions positive, valuable and constructive. The Committee encourages Member States to positively consider and approve the proposal and remains open to considering

any additional suggestions. The IAOC's proposed revisions will be discussed at length in as a separate PBC agenda item 7.

“The New construction Projects: From its inception, the IAOC has been tasked with the oversight of the New Construction Projects. At each of its sessions, the Committee was updated by Management on the progress of the Construction Projects. It also reviewed reports issued by the internal audit function and the External Auditor respectively. A number of pertinent issues were raised by the External Auditor on this topic. These are contained in the External Auditor's report. The Committee will continue to follow up on Management implementation of these recommendations.

“I will now address you on strategic matters and proposals by the Secretariat. The first strategic issue is the progress report on projects under the Capital Master Plan. At its 32<sup>nd</sup> session, the IAOC reviewed the 2014-2019 Capital Master Plan and suggested a number of changes to the format of the Plan in order to enhance its information value. The Committee looks forward to Management incorporation of the changes in its future submissions of the Capital Master Plan, including the need for a cost benefit analysis of proposed projects.

“The second strategic matter is the Annual Report on Human Resources. The IAOC noted with approval the Annual Report on Human Resources presented by the Director of the Human Management Resources Department, and took particular note of the efforts proposed to address the concerns of Member States with regard to equitable geographical representation at WIPO.

“The Management presented for discussion during our last session the following proposals being tabled before the PBC: (1) a proposal to enhance program performance and financial reporting; and (2) a proposal to amend the WIPO policy on investments. To this second proposal, the Committee also recommends expanding the terms of reference to include a review of the costs and benefits of managing the ASHI funds either internally or externally; and lastly (3) a proposal to amend the Financial Regulations and Rules.

“To conclude, the Committee wishes to thank the Director General and all WIPO staff members with whom it has interacted, for their availability, openness and timely provision of documents. It also wishes to thank Member States for sharing their questions and comments at the IAOC information sessions and looks forward to a continued engagement and dialogue. I thank you.”

40. The Delegation of El Salvador raised a question regarding the procedure for drawing up country support plans, specifically with reference to developing countries and the excellent work that was carried out by the Latin America and the Caribbean Bureau. The Delegation wished to ask the Vice-Chair of the IAOC what the added value of country support plans would be and what the difference would be compared with what had already been carried out, specifically when looking at existing criteria and what had already been carried out in countries of Latin America and the Caribbean.

41. The Vice-Chair of the IAOC said that, from a country portfolio evaluation of Thailand, and in spite of the evaluation being undertaken, it appeared that a country plan was not in place initially, which would have indicated the targets and the objectives of WIPO's assistance. Therefore, it was difficult to undertake that evaluation, that is, without the basis on which to undertake the evaluation. Baseline information is required, as well what achievements were planned and expected. If a country support plan is drawn up when WIPO begins to assist a country, then you have a reasonable means of actually measuring and evaluating whether the assistance has been successful or not.

42. The Delegation of El Salvador sought further information on the added value of the country support plans. Specifically, it wished to refer to the support plans already in place for countries of the Latin American and Caribbean region. El Salvador was already working in this way, that is with a support plan with targets and evaluations, and that this was a procedure already in place for the region as the Delegation recalled it. It therefore wished to understand, with respect to its own country, what would be the value of putting in place a new procedure.
43. The Vice-Chair of the IAOC clarified that the recommendation in question related to countries where WIPO rendered assistance but where there were no support plans in place.
44. The Delegation of India thanked the Vice-Chair of the IAOC for the presentation of the IAOC's report. It considered the report to be a valuable document for discussion in the PBC as it aimed to assist Member States in their role of oversight and better exercise of their governance responsibilities with respect to the various operations of WIPO. The Delegation also wished to thank the members of the IAOC for their annual report for the period September 1, 2013, to August 31, 2014. It wished to make some comments and looked forward to hearing the responses, perhaps at the present session. The first comment related to the proposed revisions of the WIPO Internal Oversight Charter. The Delegation found a number of proposals made to be very useful and was sure that there would be an opportunity to discuss these at subsequent sessions. At this point in time, the Delegation believed that this exercise should continue and it hoped that any recommendations would find a place in the report of discussions for the next session. The Delegation welcomed the IAOC's recommendation that Management should issue the annual report of the Ethics Office as a stand-alone report, and thought that this would be a useful exercise. It understood that the IAOC had not been able to make substantive comments on the External Auditor's report, particularly given that it had not had the opportunity to see the report at its last session. Nevertheless, the Delegation certainly wished to hear very detailed views of the IAOC on the External Auditor's report at subsequent interactions between the IAOC and the PBC or at the GA. As a final comment, the Delegation had observed a show of considerable interest relating to the reserves, which had come up to the surface due to the observations of the External Auditor, and which the Delegation understood was being diligently observed and followed up by the IAOC, including in its interaction with the Management. The Delegation was confident that the IAOC would continue its discussions with Management on the reserves within the context of financial reporting, and would brief the PBC as well as the GA at their next sessions, as this was a delicate issue.
45. The Delegation of Pakistan appreciated the report prepared by the IAOC and the assistance provided by the Secretariat in this regard. The review and oversight provided by the IAOC was essential for transparency and efficient functioning of the Organization. The non-availability of the External Auditor's report on time was therefore unfortunate, and the Delegation hoped to see this rectified in the future. The Delegation supported the recommendation on issuing the annual report of the Ethics Office as a stand-alone document to the PBC, rather than as an Annex to the Annual Report on Human Resources, and believed it was very useful. It also appreciated the improvement of the quality of information in the Program Performance Report, as recognized by the IAOC, and hoped that the proposal to consolidate reporting and avoid duplication and reduce the volume of documentation would be implemented in practice. It also hoped that there would be more discussion and actual implementation of the principle of equitable geographical distribution of human resources in the Organization.
46. The Delegation of Spain, speaking in its national capacity and not in its capacity as Vice-Chair of the PBC, wished to join other delegations in thanking the IAOC members for the information provided, as well as their hard work and availability. It expressed its thanks to the outgoing members and welcomed the new members. The Delegation wished to ask, as had other delegations, a little more about the External Auditor's report. The Delegation had perhaps not had enough time to go through the report and therefore wished to ask the IAOC for some first opinions, for example on the construction of the new conference hall, a beautiful building



without doubt. The Delegation was sure that, when reviewing the External Auditor's report, the IAOC did not limit itself to the External Auditor's recommendations but that it also reviewed the External Auditor's comments on what had happened over the past months, for example, the evolution of the construction project, as the Committee had been following the new construction projects from their beginning until now. The Delegation also wished to make a general comment on the Committee's work: It believed that the Committee was carrying out its work as was necessary and that its work was of high quality. It thought that the IAOC should have a more reactive role, and be more proactive in sourcing information. The Delegation would perhaps recommend that the IAOC identify areas where it could, in a proactive way, make recommendations and/or follow up and monitor points that it thought were of specific interest, and to try to reflect this in its reports. This would help Member States identify those matters that the members of the IAOC felt were of particular interest to Member States.

47. The Vice-Chair of the IAOC thanked the delegations for their comments. Regarding the External Auditor's report, the Vice-Chair said that at the time of the IAOC's last session two weeks ago, the IAOC had been provided with a draft version of the report. During the session, it had received a version that it was told was the final report but that version had not yet been signed. The IAOC would generally expect the External Auditor's report to have been finalized by the time of its August session, that session being so close to the PBC. Effectively, the IAOC had reviewed the contents of the report but had had reservations in that it had been, in fact, reviewing a draft, even if little had been changed in the final version. The IAOC would expect, in future, to receive the report earlier than it had been delivered this year. It had considered the issues raised in the report, in particular as regards building construction. There were a number of issues raised which the Vice-Chair expected would be discussed in depth under the item on the External Auditor's report. However, the IAOC had requested the Secretariat to take into consideration the issues raised in the External Auditor's report. The IAOC had received briefings from the Management on the new construction projects at each quarterly session. However, when one looked at the External Auditor's report, one tended to get the feeling that there was some disagreement between what was being stated by the External Auditor and what was being stated by the Management. However, the Management had actually indicated in its responses what its position was. The IAOC would have urged both parties, at the time that the report had been issued, to have made a lot of effort, at least to conclude with an agreement on the issues being raised. In terms of the IAOC proactivity, the Vice-Chair said that perhaps the Delegation of Spain's comment results from the way in which the report had been written. The IAOC had raised issues and discussed these with the Management. It had also helped Management to be proactive and to take issues forward. One such issue was the issue of risk. In an earlier session, the IAOC had talked to the Management about the establishment of a risk policy, and it could be seen that this had now been undertaken. Another example was the Capital Master Plan. The IAOC had raised a number of issues with the Management, which had been well-received and which the Management had taken into account for the future. The IAOC did raise issues. Nevertheless, the Vice-Chair of the IAOC said that she did take on board the points made by the Delegation of Spain and thought that the IAOC's work could be reported in greater detail in its future reports.

48. The Delegation of Japan, speaking on behalf of Group B, thanked the IAOC and expressed its appreciation for the IAOC's critical role and contribution to the oversight mechanism of WIPO. It also wished to express its gratitude for the IAOC's report contained in document WO/PBC/22/2, and all the activities included in that report. Group B welcomed, in particular, the positive findings on the internal audit and evaluation functions of the IAOD, and the significant improvement in the clarity of information contained in the PPR. It shared the IAOC's positive response to the Secretariat's proposal to reform and to enhance program performance and financial reporting. Group B expected the IAOC to continue to play an important role in the oversight mechanism of WIPO and further contribute to improving management of the Organization.

49. The Delegation of the United States of America supported the statement made on behalf of Group B. It thanked the IAOC for its informative report and for the attention the Committee had given to the revisions to the Internal Oversight Charter. The Delegation believed that the foundation documents for all aspects of WIPO's accountability and oversight framework should be reviewed regularly to ensure that they were relevant and comprehensive. It therefore appreciated the efforts that had gone into this exercise. The Delegation was particularly supportive of the proposed revision that called for public access to IAOD's audit and evaluation reports. Organizations across the UN System had been taking similar steps toward greater transparency. For example, in 2012, the Executive Boards of several UN Funds and Programs – United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Office for Project Services (UNOPS), UN Women, World Food Programme (WFP) and United Nations Children's Fund (UNICEF) – had adopted decisions to disclose their internal audit reports by the end of 2012. In April 2013, the UN General Assembly followed suit with a decision by Member States to authorize public disclosure of reports of the Office of Internal Oversight on a trial basis through to December 2014. This action had been extended to the United Nations Environmental Programme (UNEP), United Nations Office on Drugs and Crime (UNODC) and UN Habitat. United Nations Educational, Scientific and Cultural Organization (UNESCO) posted final evaluation reports dating back to 2002 as well as their annual evaluation plans. The Delegation agreed with the IAOC's suggestion that the Annual Report of the Ethics Office should be presented to the PBC as a stand-alone report rather than as an Annex to the Annual Report of Human Resources. The Ethics Office was an important element for the accountability framework of any organization. Sufficient time should be given to discussing the work of the Ethics Office, in particular as regards outreach and training, and the types of enquiries received. The Delegation also wished to encourage the Ethics Office to share its annual work plan with the IAOC prior to finalization, as the IAOC could provide insight into potential weaknesses in the internal control framework, and could add a different perspective for the direction of the work of the Ethics Office.

50. The Delegation of Mexico thanked the Vice-Chair of the IAOC for presenting the IAOC's report and the Committee's members for all their work. It welcomed the three new members, Mr. Ámon, who was present at this PBC session, Mr. Kaltenbach and Mr. Zhang. It was pleased with the work that had been carried out by the Committee and also wished to thank the IAOC for its work on the Internal Oversight Charter. The Delegation echoed concerns with regard to the management of staff benefits and entitlements, which it saw as an issue not limited to an internal audit report, but as one that related to governance and management of the Organization in general. The Delegation was pleased to see the recommendation of the IAOC for harmonization of procedures and policies in this area with those existing elsewhere in the UN System. The Delegation asked the Committee to continue its follow-up work on the implementation of older recommendations; there were some important high risk recommendations that continued to remain open. It also wished to see recommendations over three years old being closely reviewed. It joined other delegations in agreeing that the IAOC should review the work plan of the Ethics Office before its finalization and that the Annual Report of the Ethics Office should be presented to the PBC as a stand-alone document. To ensure follow up on the IAOC's report, the Delegation wished to propose an amendment to the draft decision paragraph of document WO/PBC/22/2, based on the spirit of consensus that was present in previous sessions of the PBC as regards this decision paragraph.

51. The Delegation of South Africa thanked the IAOC for its report and the Vice-Chair of the IAOC for her presentation. It welcomed the proposed revisions to the Internal Oversight Charter, which it believed would bring about greater transparency and clarity to the work of the Organization. It was also pleased to note the granting of public access to IAOD's reports. The Delegation supported the increased interaction between the IAOC and the Ethics Office and welcomed the IAOC's suggestion of a stand-alone report of the Ethics Office.

52. The Chair announced that the text of the decision paragraph was refined (according to the proposal by the Delegation of Mexico, which had been circulated) in order to clarify the

distinction between the recommendation for the GA and for the request to the IAOC. The Chair read the proposed decision paragraph: “1) *The Program and Budget Committee recommended to the WIPO General Assembly to: a) take note of the report by the WIPO Independent Advisory Oversight Committee, IAOC, document W/PBC/22/2; and b) to request the Secretariat to continue to take appropriate action in response to the IAOC recommendations. 2), the PBC also requested the IAOC to continue to review and oversee the action taken by the Secretariat in accordance with its mandate and report on the matter to the PBC*”.

53. The Delegation of Germany suggested that the word “*closely*” either be added after the word “*oversee*” in paragraph 2), or the word “*closely*” be deleted from the decision text proposed for item 6 so that that the two decisions read the same.

54. The Chair asked if the proposal was to add the word “*closely*”.

55. The Delegation of Germany explained that “*closely*” could be added or deleted, for consistency purposes.

56. The Delegation of Mexico thanked the Delegation of Germany and proposed to retain the word “*closely*” in both draft decisions.

57. The Delegation of Germany asked if the Delegation of Australia could go along with the proposal made by the Delegation of Mexico.

58. The Delegation of Australia confirmed it was comfortable with the proposal by the Delegation of Mexico.

59. The Delegation of the United States of America referred to paragraph 2 and the phrase “*in accordance with its mandate*”, which it found a little confusing because it was placed towards the end of the paragraph. In terms of clarity, the Delegation proposed that the phrase “*in accordance with its mandate*” go up further in that paragraph which would read: “*the PBC also requested the IAOC, in accordance with its mandate, to continue (..)*”, keeping the rest of the operative language, both for item 4 and item 6.

60. The Chair asked the Delegation to read the proposal.

61. The Delegation read as follows: “*The PBC also requested the IAOC, in accordance with its mandate, to continue to review and oversee the actions taken by the Secretariat and report on the matter to the PBC*”. The Delegation explained that the idea was that the mandate was in respect to the IAOC (in the Delegation’s proposal) whereas the way it had read initially was confusing in that it might refer to the mandate of the Secretariat.

62. The Chair indicated the word “*closely*” was missing.

63. The Delegation of Germany read the following proposal: “*The PBC also requested the IAOC, in accordance with its mandate, to continue to review and oversee closely the actions taken by the Secretariat and report on the matter to the PBC*”.

64. There were no further comments on this agenda item and the following decision was adopted.

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

- (a) take note of the Report by the WIPO Independent Advisory Oversight Committee (IAOC) (document WO/PBC/22/2); and

(b) request the Secretariat to continue to take appropriate action in response to the IAOC recommendations.

66. The PBC also requested the IAOC, in accordance with its mandate, to continue to review and oversee closely the actions taken by the Secretariat and report on the matter to the PBC.

## **ITEM 5 REPORT BY THE EXTERNAL AUDITOR**

## **ITEM 11 ANNUAL FINANCIAL STATEMENTS 2013; STATUS OF THE PAYMENT OF CONTRIBUTIONS AS AT JUNE 30, 2014**

### **(a) ANNUAL FINANCIAL REPORT AND FINANCIAL STATEMENTS 2013**

### **(b) STATUS OF THE PAYMENT OF CONTRIBUTIONS AS AT JUNE 30, 2014**

67. It was decided that item 5 and 11(a) and (b) would be discussed together.

68. Discussions were based on documents WO/PBC/22/3 (Report by the External Auditor), WO/PBC/22/5 (Annual Financial Report and Financial Statements 2013), and WO/PBC/22/7 (Status of the Payment of Contributions as at June 30, 2014).

69. The Chair introduced agenda item 11, the Annual Financial Report and Financial Statements 2013 and the Status of Payments of Contributions as of June 30, 2014, and agenda item 5, which was the Report by the External Auditor. The Chair explained that the Annual Financial Report and the Financial Statements of 2013 contained the Financial Statements of the Organization for the year ended on December 31, 2013. In accordance with Regulation 8.11 of the Financial Regulations and Rules (FRR), the PBC would be required to examine the financial statements and the audit report thereon and to forward those to the GA with comments and recommendations. The Status of the Payment of Contributions as at June 30, 2014 had been prepared early in July and provided details of the status of the payment of contributions as at June 30, 2014, including information concerning the areas of contributions and payments towards the working capital funds since 2003. The Report by the External Auditor provided the opinion of the External Auditor on the Financial Statements of the Organization for the year ended December 31, 2013 and the External Auditor's principal recommendations arising from the audits undertaken in the year 2013/14. This document also contained the Organization's responses to each of the External Auditor's recommendations.

70. The Secretariat explained that the annual financial statements of 2013 included the Annual Financial Report and the Financial Statements for the year ended December 31, 2013. These financial statements had been prepared in accordance with the International Public Sector Accounting Standards (IPSAS) and had received a clean audit report. The Financial Statements provided a discussion and analysis of the results of the year, as well as giving a detailed explanation of the constituent parts of the Financial Statements themselves (overview of the Financial Statements). The Statements were followed by a number of tables which were non-obligatory for IPSAS compliance purposes but which provided useful additional information to Member States. The first two provided details of the financial position and the financial performance of the Organization by business unit, whilst the third table provided a summary of the income and expenditure relating to special accounts, otherwise known as Funds-in-Trust. The Organization's results for 2013 showed a surplus of 15.1 million Swiss francs for the year with total revenue of 351.6 million Swiss francs and total expenditure of 336.5 million Swiss francs. The net assets of the Organization as of December 31, 2013, were 208.8 million Swiss francs. The largest source of revenue during 2013 had been PCT System fees, accounting for 73.2 per cent of total revenue. Madrid System fees represented the second largest source of revenue for the Organization, accounting for 15.8 per cent of total revenue. The largest

expense for the Organization was personal expenditure of 214.4 million Swiss francs, representing 63.7 per cent of total expenditure.

71. The Secretariat presented the document on the status of the payment of contributions, which contained information on the annual contributions and payments towards the working capital funds as of June 30, 2014. The Secretariat added that, since that date, payment had been received as follows: Bolivia (Plurinational State of), 28,490 Swiss francs (2005 plus 2006 contribution); Brazil, 19,633 Swiss francs which cleared the 2013 balance, with only the 2014 contribution of 91,158 Swiss francs remaining due; Italy, 4,468 Swiss francs, leaving no remaining arrears; Japan, 1,139,475 Swiss francs, leaving no remaining arrears; Nicaragua, 5,931 Swiss francs, leaving no remaining arrears; Poland, 34,188 Swiss francs, leaving no remaining arrears; Qatar, 11,395 Swiss francs, leaving no remaining arrears; the Russian Federation, 27,297 Swiss francs, which had paid part of the balance of the 2014 contribution; the United Arab Emirates, 11,395 Swiss francs, leaving no remaining arrears; and the United Republic of Tanzania, 1,424 Swiss francs, which now had no non-frozen arrears. In addition, small Madrid and Hague deductions had been made against the same contributions, thus paying off some arrears for Cote d'Ivoire (176 Swiss francs), Mali (22 Swiss francs), and Niger (64 Swiss francs). The Secretariat explained that the document also provided the evolution of arrears in contributions and Working Capital Funds since the year 2003.

72. The Chair announced that the External Auditor would present document WO/PBC/22/3.

73. The External Auditor delivered her report as follows:

“Thank you. Honorable Chair, Distinguished Delegates, I am grateful for this opportunity to present to you the results of the audit of the World Intellectual Property Organization for the financial period 2013. The Report of the External Auditor for the year 2013, giving important audit observations and recommendations, has been presented separately for transmission to the General Assembly.

“According to the terms of reference for the External Auditor, we are required to express an opinion on WIPO's Financial Statements and report on financial operations for the financial period ended 31 December 2013. The audit for the financial year 2013 was conducted as per an audit plan drawn up on the basis of a risk analysis of WIPO, conducted by us in June/July 2012. The audit included an audit of the financial statements of WIPO, a performance audit of WIPO Program 9, Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, Least Developed countries (LDCs), and a compliance audit of the New Conference Hall Project (NCHP). The Audit included a review of the financial statements to ensure that there were no material errors and that the requirements of IPSAS have been met. We have placed an unqualified audit opinion on WIPO's Financial Statements for the financial period ended 31 December 2013. WIPO adopted IPSAS in 2010 and adopted IPSAS 28, 29, and 30 relating to financial instruments during the year 2013. The surplus for the year ended December 2013 was 13.1 million Swiss francs.

“For the preparation of the 2013 financial statements, the accounting policy relating to the recognition of revenue from international patent applications was changed. The effect of this change in accounting policy was recognized retrospectively, and financial numbers of 2012 were restated. As a result, the 2012 surplus increased from 15.7 million Swiss francs to 19.5 million Swiss francs. The surplus for the year 2013 was 15.1 million Swiss francs, which had decreased by 22.56 per cent as compared to the surplus for the year 2012. For the year 2013, total revenue of WIPO was 351.6 million Swiss francs, which increased by 3.1 per cent compared to the restated 2012 total revenue of 341 million Swiss francs. The largest source of revenue during 2013 was PCT System fees, accounting for 73.2 per cent of total revenue. Revenue from

PCT System fees increased in the year 2013 by 2.2 per cent in comparison to the year 2012.

“In 2013, expenses in WIPO stood at 336.5 million Swiss francs, increased by 4.7 per cent, compared to 2012 total expenses of 321.5 million Swiss francs. Representing the nature of work performed by the Organization, the largest expense for the Organization is personnel expenditure of 214.4 million Swiss francs, having a share of 63.7 per cent of total expenses. Personnel expenditure has shown an increase of 0.8 per cent compared to 2012.

“As of 31 December 2013, the Organization had net assets of 208.8 million Swiss francs compared to a restated balance of 193.7 million Swiss francs at the end of 2012. WIPO prepares a biennium budget. The biennium budget of 647.4 million Swiss francs was approved by the Assemblies of Member States of WIPO on September 29, 2011. In 2012/13, the total revenue for the biennium of WIPO was 680.73 million Swiss francs, which was 33.3 million Swiss francs more than the budgetary estimation. Total expenses for the biennium were 611.81 million Swiss francs, which was 36.6 million Swiss francs less than the budgetary estimates.

“In our report for the financial year 2012, we had recommended that WIPO may consider the creation of a separate reserve for the purpose of financing projects. However, the financial statements of WIPO for the year 2013 did not disclose any separate reserve for the purpose of financing projects. Note 21 forming part of the Financial Statements of WIPO for the year 2013 only disclosed the remaining balance (24.80 million Swiss francs) on projects underway as of 31 December 2013, the amount of 11.20 million Swiss francs approved for new projects starting in 2014 and the remaining balance (23.30 million Swiss francs) on building construction projects as of 31 December 2013. However, the Note did not disclose the amount of reserves utilized on construction projects which were being partly/fully financed from reserves on the grounds that expenditure incurred thereon did not affect the level of reserves as the same was capitalized.

“We recommend that WIPO ensure the creation of a separate reserve for the purpose of financing projects and reflect the same separately in the financial statements to provide a better understanding of the transactions related to the utilization of accumulated surplus reserves.

“Accounts Receivable include “PCT Debtors” amounting to 62.40 million Swiss francs as of 31 December 2013. The applications remaining unpaid at the reporting date were recognized as PCT Debtors after deducting therefrom the lump sum of the amounts received by WIPO but pending allocation against individual applications by PCT Division owing to complications in the accompanying data received from receiving offices. It was observed that Other Liabilities, PCT Current Accounts, included an amount of 6.60 million Swiss francs, representing the application fees received from receiving offices of Italy and Japan against the applications filed. This was largely in the nature of unallocated fees lying with WIPO, which was to be deducted from the consolidated figure of PCT Debtors. The non-adjustment of the amount resulted in overstatement of Accounts Receivable as well as Other Liabilities by an amount which related to the filing of received applications.

“We recommend that WIPO review the status of unpaid applications of the receiving offices and adjust the fees for already filed applications lying in PCT current accounts from PCT Debtors to reflect the actual amounts outstanding against PCT applications.

“The unrealized gains and losses resulting from the translation of PCT Debtors denominated in currencies other than WIPO's functional currency were not being

recognized in the Statement of Financial Performance, which was not in conformity with the requirements of IPSAS 4, as well as the stated accounting policy of the Organization.

“We recommend that WIPO may consider maintenance of the accounting data relating to fees received and receivable in respect of PCT applications in the related currencies for every application/receiving office.

“The demographic profile of the members is one of the critical factors in the valuation of the post-employment benefits liability of an Organization, particularly in the case of After-Service Health Insurance (ASHI), where the age profile of a retiring member significantly impacts the extent and period of medical insurance premium liability accruing to the Organization. It was observed that the demographic assumptions relating to the retirements and staff turnover being considered for working out the actuarial valuation of the liabilities and benefits for Repatriation Grants and Travel and ASHI were not based on the current data on demographic trends of retirement/staff turnover.

“We recommend that WIPO may consider reviewing and updating the demographic assumptions relating to retirements/staff turnover adopted in the actual evaluation of post-employment benefits.

“As per the Program and Budget document, the budget provisions for Program 9 showed a declining trend since 2008. Non personnel Resource provision decreased by 52.11 per cent in this period, which was the main component of implementation of development activities and covered staff missions, third-party travel, conferences, experts' honoraria, publishing and operating expenses. Development Agenda (DA) recommendations are broader, dynamic and principal objectives that would remain a guiding principle for implementing technical assistance activities to developing countries. However, as per the proposed Program and Budget 2014/15, only five DA recommendations were included to guide Program 9 as against 22 and 27 DA recommendations in 2010/11 and 2012/13, respectively.

“We recommend that WIPO Secretariat may ensure that all relevant development recommendations are considered while formulating the technical assistance activities.

“The Country Plan is a jointly agreed document between the country and WIPO which provides a tailored and comprehensive framework for planning and delivering WIPO's technical assistance to a country within a biennium. Despite the paramount importance of this document, we found that in only 60 countries, as against 138 countries, plans were prepared.

“The Annual Work Plan is a planning and implementing tool that indicates the activities that are to be carried out in achieving the expected results mentioned in the WIPO Program and Budget document. We observed that there was no formal mechanism to inform member countries about the approved work plan, and development activities indicated in the Annual Work Plan were not mapped against program and budget performance indicators.

“We recommend that WIPO Secretariat may develop a standard operating procedure for formulation of country plans. The formulation of the country plan may also be considered as one of the performance indicators for monitoring and performance evaluation of the Regional Bureaus (RB) under this Program.

“No definition of development expenditure was available which could describe its scope and constituents. Most importantly, the current definition of development expenditure was silent about the nature of development activities covered and their intended impact on the development of countries through IP tools. While assessing

development shared under substantive programs, we found that regular expenses, like traveling allowance and daily subsistence allowance, were also shown as development share.

“We recommend that WIPO may clearly define development expenditure and formulate a method for determining the development share under each program and activity so that effectiveness of the mainstreaming exercise can be assessed objectively.

“Tracking of financial resources and reporting thereon to stakeholders is a basic requirement of prudent and transparent financial management. We observe that there was no budget code allocated for capturing development expenditure share in substantive programs and, in the absence of this link, the actual expenditure on development could not be tracked.

“We recommend that WIPO may continue implementation of a robust tracking system to ensure availability of data on actual development expenditure against the estimates.

“As per regulation 2.1 of the WIPO Staff Regulations and Rules, each post shall have an accurate and up-to-date job description. However, we found that there was no job description in 25 per cent of approved posts for Program 9.

“We recommend that job descriptions pertaining to Program 9 may be updated.

“The risk management framework is a good initiative by WIPO to enhance the internal control mechanism, but the risk register of Program 9 was not updated, and no risks were identified by LDC division and Special Projects Division.

“We recommend that quality of the risk registers may be monitored on regular basis by the DDG of the Development Sector.

“WIPO Performance Program Report (PPR) is an important management tool ensuring that lessons from past performance are learned and duly incorporated into the future implementation of WIPO's activities. We noticed that the main component of the Program and Budget document, that is targets set for achievements, were not being captured in the PPR document. Due to the non-availability of this information in the PPR, the reader/stakeholder could not compare the achievement against target and had to invariably refer to the P&B document each time for progress of performance.

“We recommend WIPO may consider indicating the set targets in PPR.

“We noted that the Technical Assistance Database (IP-TAD) did not provide any information about IP domain technical issues which were covered or discussed during an event nor the content of presentation, nor the various issues raised by participants, nor the minutes of discussion. The report submitted by a consultant on an event was being submitted to the DDG, Development Sector, only through the RB's Director, but it was not being updated in IP-TAD, which deprived the member countries of benefit from development activity or events held in other countries.

“We recommend that WIPO may ensure developing a monitoring mechanism at RB's Director level to validate the information about development activities which are being entered in E-work and IP-TAD. To ensure data integrity, new validation checks may also be introduced in WIPO IP-TAD.

“The Assemblies of Member States of WIPO, at its 47<sup>th</sup> series of meeting held from 22 September 2009 to 1 October 2009, approved the NCHP with a total budget of



68.20 million Swiss francs. The Selection Committee formed for the selection of the contractor, called for a General Contractor (GC) for the project which was selected in February 2011. The agreement was signed in May 2011 as a fixed price contract of 53.24 million Swiss francs, including honoraria, fees, and risk and rewards, but excluding the contract for access center, which was separately awarded in March 2012 to the GC for 3.47 million Swiss francs. The work started in August 2011 and was scheduled to be completed by April 2013. However, due to slow progress of the work by the GC and a dispute on certain executed work, the contract was terminated through an amicable and jointly agreed separation in July 2012. WIPO Secretariat took over the direct responsibility for executing the project by enhancing the role of architect, pilot, and specialized engineers. The work was expected to be completed by June 2014. The detailed proposal for phase 2 of the NCHP submitted for approval did not provide the Member States with essential information to facilitate an informed decision by them. As a best practice, the whole life value generated should be presented before the decision-makers and not simply the initial capital costs. The overall impact of the new construction on service delivery can be gauged only if a building's costs are broken down into construction costs and the costs of running the facility. The fact remains that the cost of hiring space for conferences was 0.4 million Swiss francs during the last five years as against the construction cost of 68.20 million Swiss francs, and an estimated annual maintenance cost of 0.39 million Swiss francs.

“We recommend that all future proposals for construction project may contain a cost-benefit analysis of the proposed investment based on the cost of construction, operation, and maintenance in present-value terms.

“We observed that the contract was awarded to *M/s Implen* as GC in May 2011 despite the fact that WIPO management was aware of the difficulties being caused by the GC in the New Construction Project (NCP), that is, delays in finishing and repair work (mainly facades, atria glass rooftops, floor) and changing key members of the GC management team. The Selection Board had also been briefed by the WIPO Evaluation Team and the Pilot on the difficulties in December 2010 and early February 2011. Further the IAOD had recommended (in May 2011) that the contract for NCHP should not be signed before the new building had been received in good order and compensation for late delivery was settled as per contractual terms of the NCP. However, WIPO Secretariat decided not to implement the recommendation in the best interest of WIPO and provided its own reasons (that is, to safeguard the project budget, to avoid delays, to preserve validity of the contract, and not to keep the work site on hold indefinitely). Also, the Secretariat did not bring IAOD's recommendations and response to the notice of the Selection Board. The Management stated that while it was known that there were defects in the facades and on the atria glass tops in late 2010, it was expected, as in any construction project, that these defects would be corrected by the GC in the course of time. Nothing indicated that this would, in any case, not have been undertaken in the winter and spring of 2010, for obvious reasons relating to the weather conditions. The two recommendations of IAOD as mentioned above were attended to by the date which the NCHP contract was signed.

“We recommend that past performance of a contractor, particularly in respect of projects implemented by WIPO, may be accorded due weight in the criteria for selection.

“The Organization accepted the audit recommendation, noting that it was already in the course of being implemented by the WIPO Secretariat in relation to contract tendering in general.

“The construction work for the NCHP commenced in August 2011 and was to be completed by April 2013. However, due to a delay in work and quality issues, the project work was terminated in July 2012 by WIPO through an amicable and jointly agreed

separation. At the time of termination (24 July 2012) 24.11 million Swiss francs were paid to *M/s Implenia*. As per the statement provided by them on 3 August 2012, the amount of work done against the contract was 10.63 million Swiss francs. This led to an excess payment of 13.48 million Swiss francs on the date of termination of contract. We were informed that WIPO had accepted 14.22 million Swiss francs as the amount of work done.

“With regard to the management of the contract with the GC, the following was observed: (i) As per paragraph 6.6 of the payment plan of the original contract with the GC, payments under the payment plan were to be made within 45 days, provided that GC had transmitted its monthly progress report. However, no specific project milestones were prescribed in the fixed price contract for monthly payment; (ii) Payments were made without ascertaining the progress of work made by the GC; (iii) The Secretariat sought legal advice from a law firm to better understand the extent of delays on the NCHP (through a study carried out by international construction planning experts). According to the study, as at mid-July 2012, the actual delay was in the order of four months and not two months as had been announced by the GC in early June 2012. In this regard, the reason for not imposing the penalty of 1.2 million Swiss francs on the GC was not on record; (iv) WIPO opted for an amicable settlement of the contract reportedly based on legal advice. However, there was no written advice available on record from the law firm to amicably settle the contract with the GC. The procedure under the regulations of the United Nations Commission on International Trade Law were not available on record; (v) The final amount calculated by WIPO had not been agreed to by the former GC as there was no document jointly signed by both sides, even after 20 months of the termination of the contract, and the excess amount paid was yet to be fully recovered, consequently resulting in a loss of interest on WIPO's funds; (vi) As the termination agreement was linked with the NCP, we noted that in the NCP, also, the penalty for the delay in construction was reduced to 2.225 million Swiss francs from the applicable penalty of 5.8 million Swiss francs. Given the penalty amount of 25,000 Swiss francs per day, the amount of 2.225 million Swiss francs covered a delay of only 89 days. The reasons for reporting to the Member States that this amount covered a period of delay from October 2010 to May 2011 were not on record. Further, no justification was recorded for the reduction of the penalty which was in contravention of contractual provisions.

“The Management stated that the best interests of WIPO were preserved by having secured an amicable and jointly agreed termination agreement and by having prevented a paralysis of the worksite for an indefinite period of time. All payments made by WIPO until March 2012 were made according to the contractual payment plan and next to the basic contract with the former GC. This payment plan was for a monthly fixed amount that was not linked to specific project milestones. The contractual framework with the monthly fixed price was the option under the Swiss Society of Architects (SIA) general contractor model. This model was retained in order to facilitate work progress by the GC and to enable evened-out monthly payments. It was recalled that under Article 7.7 of the basic contract for the NCP, the maximum contractual amount that could have been claimed by WIPO was 5.8 million Swiss francs, if the new building had not been delivered at all and had not been receipted at all. The Secretariat decided to plan for a series of phased deliveries. As a consequence, the calculation down from the amount of 5.8 million Swiss francs was made *pro rata* on the basis of the actual receipt of areas, the handover of such areas, and the utilization by WIPO of the various areas and floors.

“We are of the opinion that payments should be linked to construction milestones. WIPO's Financial Regulations and Rules (FRR) also required that no contract or other forms of undertaking shall be made on behalf of the Organization which requires a payment or payments on account in advance of the delivery of performance of services. Whenever an advance payment is agreed to, the reasons therefore shall be recorded.

“Further, we were of the view that the full penalty of 5.8 million Swiss francs was recoverable, as the complete building was not handed over on the date stipulated in the contract. Similarly, the full penalty of 1.2 million Swiss francs was recoverable in the case of NCHP rather than 0.3 million Swiss francs, which was obtained by WIPO under the termination agreement as compensation against future claims.

“We recommend that payment to the contractors should be linked with construction milestones.

“The Organization accepted the audit recommendation, subject to the provision of Swiss regulatory or other legal frameworks, in particular the code of obligations, and any other applicable Geneva cantonal or municipal provisions. These may require the Secretariat putting in place a parallel payment management process to ensure payments are linked with construction milestones.

“WIPO had entrusted the architect, *M/s Behnisch Architekten*, via addendum number 26 to the contract number PCS/2K/BBP-12 of 17 April 2001, related to the NCHP, with the adaptations in the main building, in the existing AB, the access center, and the security parameter. Addenda up to number 36 were issued revising the scope of work and enhancement of fees/honoraria to the architect. On termination of contract with the general contractor on 23 July 2012, an addendum 37 to the contract with the architect was made in March 2013, enhancing the role of the architect by including the additional services to be provided in place of the former GC for an additional amount of 2.5 million Swiss francs. With regard to addendum 37, we observed that for the calculation of an additional fee to the architect for additional services, the work completed by the former GC was taken as 10.632 million Swiss francs as against 14.22 million Swiss francs accepted by WIPO. WIPO had also paid honoraria to the former GC for work of 14.22 million Swiss francs. Further, addendum 37 did not include the clause of penalty in case of any delay in the execution of work by the architect with regard to his additional responsibilities. On the other hand, there was a clause of additional fees if the work extended beyond August 2014.

“The Management stated that WIPO chose to remain with the original framework since the 2001 initial contract with the architect, which included a different type of guarantee for WIPO in the form of a 10 per cent retainer, applied to all honoraria from the architect. If WIPO had chosen to change that framework to introduce such a penalty clause, WIPO would have had to negotiate with the architect for that addendum a new balance between his honoraria and the calculating mechanism for a penalty for delay, which would have meant a potential risk of higher honoraria throughout the remaining duration of the contract. As the role of the architect was enhanced as worksite manager, the penalty clause was required to ensure the completion of work on time.

“We recommend that payments of honoraria to the architect should be based on the value of actual work performed by him. We also recommend that the remuneration and penalties of the architect should be commensurate with his role and responsibility.

“The Organization accepted the audit recommendation for formal implementation in respect to future projects, subject to the Swiss regulatory or other legal frameworks, in particular the code of Obligations, the SIA norms and any other applicable Geneva cantonal or municipal regulations as well as the scope and estimated cost of the particular project at hand. The project management has proceeded in this way in practice since the beginning of 2014, in withholding invoices from the architect and approving the payment of honoraria to be made at a later date, corresponding to the progress of construction work. Though quality specifications were specified in the contract, the plan did not form part of the contracts to ensure compliance with contract conditions.

“We recommend that quality control measures should be explicitly incorporated in the contracts relating to capital projects.

“We noted that an amount of 69.12 million Swiss francs had been spent as of 31 December 2013 against the approved budget of 68.2 million Swiss francs. In addition, 0.87 million Swiss francs (which were commitment charges on the bank loan and the salary of the project manager), which were an integral part of the construction for making the NCHP, were financed from the regular budget. Considering this, the total cost overrun as of 31 December 2013 was 1.79 million Swiss francs. We noted a time overrun of about 14 months if the project was completed by the revised time schedule of June 2014.

“The Management stated that the approved provisions for the NCHP included the amount of 4.5 million Swiss francs, approved by Member States in 2011, in addition to the 2008 and 2009 approved budget provisions of 68.2 million Swiss francs. The resulting overall budget provisions approved for the new conference hall amounted to 72.7 million Swiss francs as of October 2011. The amount of the commitment of 69.12 million Swiss francs was comparable to the total amount of the approved budget provisions of 72.70 million Swiss francs, not to 68.20 million Swiss francs. The cost of the in-house project manager had been charged to the regular budget, as approved by Member States for the NCHP in the context of the biennial program and budget. With regard to the inclusion of savings of 4.5 million Swiss francs from the cost of the NCP, we observed that against the approved budget of 161.74 million Swiss francs for the NCP, the project budget utilization as on 30 June 2011 was 159.47 million Swiss francs, indicating a saving of about 2.27 million Swiss francs. As the construction of the NCP was then incomplete, the saving of 4.5 million Swiss francs was not real. Accordingly, we have compared the cost overrun to the original approved cost of 68.20 million Swiss francs for the NCHP. Further, the salary of the project manager and the commitment charges on the bank loan should also be brought under the total construction cost of the project.

“We recommend that the WIPO Secretariat may obtain a revised budgetary approval from the Member States for NCHP as the cost had exceeded the budget of 68.2 million Swiss francs.

“We also recommend that management continuously monitor time and cost overruns and take appropriate remedial measures whenever required.

“Analysis of the information on fraud/presumptive fraud, provided by the Office of the Director, IAOD, indicated that 19 new cases of fraud/presumptive fraud were registered in 2013, out of which 17 were closed. The Investigations were not all related to fraud or presumptive fraud but included cases of misconduct as well.

“The monitoring of the implementation of recommendations made by external audit is an important part of the accountability process. The report contains the status of the implementation of the important recommendations made in the previous audit report. Most of the recommendations made in this report are at various stages of implementation. I would like to ask the Organization to take action to implement the recommendations. “Chair, distinguished delegates, I have attempted to briefly highlight the significant issues discussed in our report. Before concluding, I would like to express our sincere appreciation to the Director General, the Controller, IAOD, and the staff of the Organization for the cooperation and courtesy extended to us during our audit. Thank you.”

74. The Chair opened the floor for comments on the Report by the External Auditor and the Annual Financial Report and Financial Statements 2013. He reminded delegations that External Auditor’s report on the construction projects would be discussed under item 24.

75. The Delegation of Mexico thanked the Secretariat for having provided the main financial results. This was the third consecutive year where the financial statements had been submitted in accordance with the IPSAS standards. The Delegation took note that in 2013 financial instruments 28-30 and 29 standards had been adopted for the first time. The Delegation thanked the External Auditor for the presentation of the report on Program 9 and on the NCP relating to the conference hall. The Delegation believed that the administration should respond to all of recommendations made by the External Auditor and it urged the Secretariat to take into account all of the comments in order to improve the administration of the Organization. Considering that the External Auditor's report was an invaluable tool for the work of the PBC, the Delegation wished that the document had been submitted earlier. The Delegation had not been able to examine it, nor had it been looked at in detail by the IAOC. The Delegation was pleased to note that the auditor had given an unqualified audit opinion. As during the last PBC session, the Delegation took note of the Auditor's recommendations for the Secretariat to study the setting-up of a specific reserve fund for the funding of projects. Taking advantage of the presence of the External Auditor, the Delegation inquired as to the advantages and disadvantages of having specific reserves for special projects, bearing in mind background to this subject in WIPO, and requested clarification on how those accounts would be registered in the accounting system under IPSAS, and whether this would affect WIPO's policy on reserves or not. Regarding Program 9, the Delegation found the comments on improving the activities undertaken by EOs positive. However, the application of some of the recommendations would depend on the decisions adopted by Member States. The Delegation referred to the audit of the NCHP, adding that it had been following the building's development very closely. The Secretariat had proved to be very open in informing Member States about the state of the progress through monthly briefings until a decision to stop them had been taken. The External Auditor had referred to the IAOD and IAOC comments on this matter. As the IAOC had not yet evaluated these comments, the Delegation believed it would be more productive if discussions were to be based on the comments and impressions of the Committee because the final closure of accounts would take place at the end of the year/ beginning of 2015. Meanwhile, there was a need for the Secretariat and the External Auditor to continue their dialogue and to clarify a number of differences between the reports on this subject. Concerning the External Auditor's recommendation 13, the Delegation wished to highlight that there should always be a cost-benefit analysis of a proposed investment for all future construction projects and believed that this recommendation, if applied, should be applied to future projects. This should be taken into account not only by the Secretariat, but also by the Member States, in order to comply with their supervisory obligations. The Delegation added that it would have been a very good idea to have had such cost-benefit analysis, but that the project had been approved in the form in which it had been presented to the Assemblies.

76. The Delegation of Japan, speaking on behalf of Group B, thanked the External Auditor for her report on the financial statements, Program 9 and the NCHP. It also thanked the Secretariat for responding to all of the recommendations. Group B had serious concerns about the scope of the audit. The mandate of the audit was finance management. Performance-related aspects of the Organization and substantive issues such as mainstreaming of development activities or the DA recommendations were completely outside of the mandate. With respect to the Secretariat's responses, the Delegation welcomed the fact that some recommendations had already been addressed by the Secretariat. A precise qualification provided by the Secretariat on the current situation and on the nature of the issues, as well as its responses were welcomed. Group B expected that the recommendations accepted by the Secretariat would be implemented in a timely and appropriate manner. The Delegation mentioned Group B's concern about the timing of the submission of the External Auditor's report and of the Secretariat's responses, which had been shortly before the PBC session. Appropriate deliberation was difficult under such time constraints. The complex and difficult nature of the audit work was understood but such a situation should be avoided in the future. The Group requested an explanation as to the reasons for the delay, including the original schedule and the actual schedule (and the specific key dates). With regard to recommendation 1, the Delegation had concerns about the difference of views on the issue of

the NCHP between the External Auditor and the Secretariat and wished to know the reasons lying behind it. At the same time, it recognized that the IAOC was working on this issue and that Member States would be informed of the results of their deliberations. Time should be made available in the future to further discuss this issue once the results of the IAOC's discussions were known.

77. The Delegation of Spain said that it would be referring to two documents, namely the Financial Statements and the Report by the External Auditor. Beginning with the Financial Statements, it wished, first of all, to congratulate the Secretariat for the quality of the Statements. The Statements had improved over past years and the Delegation wished to recognize the Secretariat's work in this regard. It congratulated the Organization for having positive results with surpluses but noted that, as reflected in the Statements, WIPO's expenditure had increased more than its income in the year, despite the surplus. This had had an effect on the net value of the Organization. The Delegation wished to continue by highlighting some additional points. First, in the context of long-term liabilities, paragraph 18 of the Statements said that the amount for ASHI had been reduced. This seemed to be a saving but, in fact, it looked more like a weakening of the situation for the future. Continuing with the analysis of ASHI in the Statements, and looking at the report of the External Auditor as well, the Delegation sought clarification on two elements. First, as regards ASHI liabilities: this year the discount rates had increased in other organizations with a consequent reduction of liabilities, that is, spending on ASHI. However, at WIPO the liabilities had increased. The Delegation asked why there seemed to be this contradiction, that is, why in other organizations the situation had been the opposite. The Delegation saw that in the External Auditor's report, and with respect to liabilities, recommendation 4 stated that the demographic assumptions were not in line with reality. It asked the External Auditor and Secretariat what the reality was, whether there was an assumption that the liabilities would have to increase, and if this would be reflected in the Statements. Another issue in the External Auditor's report related to the loans taken out by the Organization; an issue touched upon in a number of documents under review, and which related partly to investments as well as being one that had a bearing on construction projects. Notes 14 and 15 of the Financial Statements showed that, despite cash being available, WIPO had taken out loans for the new buildings. The loans were from two banks and the cost of the loans was not included in the costs of the new buildings. The Delegation said that, if it had understood the information correctly, WIPO was paying interest at a rate of 2.6 per cent. It said that there was no accountability in certain areas and asked, in terms of management of these loans, whether better use could be made of WIPO's funds. The Delegation said that the final point that it wished to highlight concerned the reserves. Some expenditure was being taken from part of the reserves and used in the calculations in the Statements, even though it had already been agreed that the use of the reserves for projects should be covered by the rules used for capital investments. With the calculation being one of expenditure, the Delegation saw a gap between a strategic point of view and an accounting point of view. It also wished to refer to a number of points in the External Auditor's report relating specifically to the new construction project. At this point, the Delegation expressed its appreciation for the new conference hall, which it said was a beautiful building, and it wished to congratulate all those who had been involved. Returning to the External Auditor's report, the Delegation began by recalling that the purpose of establishing rules and procedures for decision-making was to ensure that decisions that were taken were informed decisions. The External Auditor's report mentioned in a number of places some decisions that had been taken on the building project. The Delegation said that the rules and procedures set up for the building project were to ensure that appropriate decisions could be made. The External Auditor had highlighted cases where there had apparently been non-compliance with some procedures. The Delegation did not want to say that this was irrelevant but, in its opinion, it was possible that the non-compliance was justified due to the complexity of the approach taken and the procedures. Much of that complexity came from trying to comply, at the same time, with the rules of the Canton of Geneva, of Switzerland, and of the Organization. It thought that many issues highlighted in the report stemmed from this fact. It noted that the External Auditor had been very detailed in this part of its report. It wished to congratulate the External Auditor for the

report and said that many of the criticisms were relevant as regards results. However, it was unsure whether the recommendations here were balanced when looking at the procedures that had not been followed and yet which, at the same time, had not led to a correction but only to a recommendation. When Member States had decided to construct the new conference hall, it did not have all information required regarding the financial repercussions. It referred to the paragraph 72 of the report of the External Auditor, where it was stated that the annual maintenance costs would be some 0.39 million Swiss francs, whereas the cost of hiring space for conferences during the last five years had been 0.4 million Swiss francs. The Delegation had two questions. First, it asked whether the amount of 0.4 million Swiss francs was per annum or whether it covered the entire period, as this fact would make a difference as regards actual costs. Second, it asked whether the total of 69 million Swiss francs included amortization as well as the cost of the building. This information had not been provided. The Report also stated that there was no information concerning forecasting of income for use of the Hall by external parties. These elements were missing, and the Delegation wished to know whether, had this information been available, Member States might have taken different decisions. This was a relevant point on which it was not possible to find an answer in the External Auditor's report, and the Delegation wished to know the External Auditor's opinion on this. It said that it would not go through all the various points that the External Auditor had made regarding the construction of the new conference hall. However, it thought that some decisions needed to be clarified because Member States could have changed tack at the time of decision-making. The Report stated that some costs had not been recovered but it did not say whether those costs would be recovered. On this point, the Delegation said that this concerned some 8 million Swiss francs, which was of concern. It wished to know if this was an issue on which something would be done or whether it was just a situation that had happened. This Delegation thought that this was important because 8 million Swiss francs was an important amount. The legal advice to settle amicably with the General Contractor and not to follow an arbitral procedure was another important point. Referring to paragraph 71 of the External Auditor's report, the Delegation noted that the amount of 68 million Swiss francs had been given and that it would have been 53 million Swiss francs had WIPO gone to adjudication. The Delegation wished to know if the External Auditor had included in its calculations the other contracting services, which would have made up the difference between 53 million Swiss francs and 68 million Swiss francs. The Delegation said that it could go into more detail and could ask more questions, but would not do so. It wished to stress the matters of importance to the Delegation, which were: the procedures - how decisions might have been taken differently; and how the External Auditor might provide better information on the facts that she had highlighted in such a detailed way in the report to enable Member States to understand the actual repercussions of their decisions; what the procedures were, and what pertinence or relevance they had today.

78. The Delegation of India thanked the External Auditor for her presentation of the reports on the Financial Statements of WIPO for 2013 as well as for the audit of Program 9 and the NCHP. It noted with interest the External Auditor's unqualified opinion that the Financial Statements presented fairly, in all material aspects, the financial position of the Organization and, for this, the WIPO management deserved Member States' full appreciation. The Delegation took note of the substantive observations and specific recommendations made in the report regarding different areas. For example, the External Auditor had pointed out a recommendation made in 2012 regarding creation of a separate reserve fund for the purposes of financing projects, which had yet to be implemented in 2013. Secondly, the audit of Program 9 showed that the budget for this Program had witnessed a declining trend since 2008. Provision for non-personnel resources had decreased by 52.11 per cent in this period, which was the main source of funding for development projects and activities, missions, third-party conferences, experts honoraria, publishing, and other operating costs. Further, the report pointed out that, as per the Program and Budget 2014/15, only five DA recommendations were included in Program 9, as against the inclusion of 22 and 27 DA recommendations in 2010/11 and 2012/13 respectively. The Delegation pointed out that Member States were still grappling with the definition of development expenditure, which had come to the attention of the External Auditor, who believed

that non-availability of such a definition had implications on the scope and the kind of work that the auditors wished to do. Consequently, the report contained several important recommendations on which the Delegation wished to comment. Recommendation 5 said that the WIPO Secretariat should make sure that all 11 DA recommendations were considered while formulating technical assistance activities. The Delegation was of the view that all 11 DA recommendations should be applied to all programs for effective adoption. The DA was indeed a milestone which recognized the need to revise and reorient the work of WIPO as a whole with the aim of developing a more inclusive system. Regarding recommendation 7, which emphasized that WIPO should clearly define development expenditure and formulate a method for determining the DA share under each Program and activities, for the effectiveness of mainstreaming exercises which could be assessed objectively, the Delegation thought that the PBC was engaged in these consultations under the very able leadership of the Chair and it hoped that the PBC would be able to come out with some mutually acceptable view. It said that, furthermore, recommendation 8 suggested that WIPO may continue implementation of a robust tracking system to ensure availability of data on actual development expenditure against the estimates. The Delegation said that there were some recommendations that it felt would require further application of mind by Member States as well as by the Management. It also observed that there several useful recommendations were made in relation to construction projects, particular the NCHP, such as those regarding cost-benefit analysis of the proposed investment, quality control measures, *et cetera*. It believed that there were immense monetary, procedural and contractual issues in the recommendations that the External Auditor had tried to highlight, and which deserved very careful consideration by the WIPO management. It wished to thank the External Auditor for its painstaking work in making these substantial and useful suggestions. It also wished to convey its deep appreciation to the WIPO management for their response to the recommendations of the External Auditor and the measure taken by them to make improvements in different areas. It wished to see timely implementation of the recommendations. As was known, any audit observations were good guiding principles for an organization, and actually improved the efficiency and functioning of an organization. The Delegation was sure that this was not a one-time activity but rather a process. It was also sure that there would be continuous engagement between Member States, the Management and the External Auditor to make sure that, as an organization, WIPO derived the maximum benefit from the expert opinions that resided with the External Auditor.

79. The Delegation of Germany thanked the External Auditor for her report, which it found very important. It also thanked the Secretariat for its comprehensive answers. It aligned itself with the statement of Group B regarding the External Auditor's mandate. It thought it important that the External Auditor should stick to its mandate and not make statements on substantive issues that were really outside of that mandate. The Delegation had two additional points, one of which related to procedure. It said that it, too, would have liked to have seen the report a little earlier so that it could have formed an opinion in a more in-depth manner, and thought this important. It had heard that the IAOC had only had the opportunity to look at a draft of the report and the Delegation thought that it was important that, in future, the IAOC also had the opportunity to see well in advance the final version of the report. The Delegation had a question on the construction project, which it said was a beautiful construction and a beautiful new conference hall. In its experience, building projects usually ended up being more expensive than expected and usually took longer than expected to complete, and the Delegation did not find this unusual. What it did find unusual, in this case, was the change of general contractor in the middle of the building's construction. It asked for clarification on two points. The first point was on the difference between the target for the fixed price contract with *Implenia* and the actual cost, that is, what was the figure and what were the reasons for any difference. The second point was on whether it was still possible to raise claims of damages against *Implenia* in case of defects.

80. The External Auditor wished to sincerely thank all delegations for their questions and for receiving the report in such a good way. Regarding the questions from the Delegations of Mexico, Japan and Spain relating to the reserves, the External Auditor said that this was why



the External Auditor had said that WIPO should think about the creation of a separate reserve. The previous year, it had also commented on the creation of a separate reserve for projects to be financed from the reserves, to be shown in the Statements as part of a policy for utilization of the reserves. This year, the Management had disclosed additional information in Note 21 of the Statements but had shown only the balance of funds that remained to be utilized for projects financed from the reserves. The External Auditor said that she had commented that this Note should disclose the amount utilized on projects financed from the reserves. Under the treatment proposed, the Management had stated that they would add back the amount utilized on capital projects during the year to the accumulated surplus of the Organization and only the balance not utilized at the year end from the amount allocated would be disclosed as a separate reserve, if they created a reserve. The External Auditor felt that, by doing so, the very purpose of the policy for the utilization of the reserves, to maintain the target level of the reserves, would be defeated as the amount utilized on capital reserves would be added back to the accumulated reserve, and the same amount would be allocated time and again. This might cause a liquidity problem for the Organization in the long run. The External Auditor thought that the PBC would look into all of these aspects when finally deciding whether WIPO should be creating a separate reserve. The External Auditor's intention was that, in the Statement, it should be stated clearly how much was for the accumulated surplus and how much was the committed reserve being used for a construction project. If it was just being added back to the surplus, it was not possible to know how much remained. The External Auditor wished to see a Statement that showed clearly what the position was. It was a question of presentation in a way that would make it easier to see how much was what had been called a "free reserve", and how much was a "committed reserve". Just this segregation would give a better understanding. The External Auditor thought that this decision could be taken by Member States with respect to the reserves. With respect to the point raised by the Delegation of Spain on ASHI and the demographic profile, the External Auditor said that she had recommended that WIPO may consider reviewing and updating the demographic assumptions relating to retirements/staff turnover adopted in the actuarial valuation of post-employment benefits. What the Management and the external actuary had done was to use the 2002 data rather than the current data. For the actual retirement data for the period 2007 to 2013, the combined percentage of retiring employees was 29.5 per cent, instead of 25 per cent according to the actuarial study based on 2002 to 2009 data. The External Auditor said that the data should be as current as possible in order to make correct assumptions. As regards cost-benefit analysis for the new conference hall, the External Auditor said that it was not saying that Member States would not have taken the decision that they did. The intention of the External Auditor, whenever presenting a report on a project to Member States, was that the data should be such that they could take an informed decision. The maximum possible data should be presented to Member States to take that informed decision. With respect to the new construction, the maintenance of the building and all other costs should be taken into consideration. This was the point that the External Auditor had made. Regarding the scope of the audit, this was in accordance with Regulation 8.10 of the Financial Regulations and Rules, and the principles set out in the Annex to the Regulations. This was how the External Auditor had conducted all three audits. The intention of the External Auditor was to aid the Management to arrive at a situation where more robust systems were in place for the realities that existed on the ground. As for the construction project, most of the recommendations related to how future projects should be handled. The decision to take up an audit on the new construction project was a decision taken within the context of discussions with the IAOC.

81. The Secretariat thanked delegations for their kind comments on the quality of financial reporting. Responding to the questions from the Delegation of Spain, the Secretariat confirmed that the results were positive for 2013 and that the expenditure had increased over the previous year (2012), which was not unusual, as quite often expenditure was higher in the second year of the biennium (2013). Looking at the biennium as a whole, the expenditure was higher than in the previous biennium. That was largely because of personnel expenditure. Regarding the question on long-term ASHI liability, the Secretariat confirmed that the discount rate had increased from 2012, and so "yes", in theory, one would expect to see a reduction in the liability.

However, the detail provided in the Financial Statements (page 45 in the English version) showed that the gain made as result of the increase in the discount rate was 3,889 million Swiss francs. But, in fact, that amount was not sufficient to offset first of all, the figure immediately above it, i.e., 1.6 million, which was a change in the liability based on experience gains or losses, and secondly, the actual charges that the Organization had to make in the year (figures appearing towards the top of the page), the “current service cost” and the “interest cost”, for example. The Secretariat offered to explain in more detail to any interested delegation after the end of the meeting. The Secretariat wished to mention the question of the information that it had provided to the actuary which had led to the External Auditor's recommendation. The Secretariat had provided the actuary with information right up to the end of 2013, so he had received current information. Obviously, the Secretariat relied on the work performed by the actuary and his team, as they were specialists in the area, and it relied on their judgment. The actuary had all the information available, and still had chosen to produce a turnover number that was based on the data up to 2009. The Secretariat said that it had taken due note of the External Auditor's recommendation. The Secretariat would provide up-to-date information to the actuary again, but would also point out that this recommendation had been made, and maybe that would prompt the actuary to actually review the data right up to the end of this year.

82. The Delegation of Kenya, speaking on behalf of the African Group, thanked the External Auditors for her report. It welcomed the recommendations and was happy to note that the External Auditor had confirmed that the financial statements represented fairly the financial position of the Organization. The African Group noted the audit of Program 9 indicating that the budgetary allocation had reduced by 52 per cent when compared to 2008 levels due to the mainstreaming of development activities in other substantive programs. In addition, it noted the need to have a definition of development expenditure to facilitate better accounting. In this regard, the African Group welcomed recommendations 5, 6, 7, and 8, which were geared towards improvement of mainstreaming and implementation of DA recommendations and hoped that the Secretariat would implement them in full. In addition, the Group welcomed recommendations 10, 15 and 16, directed at better management of construction projects. It hoped that these recommendations could be implemented in full to avoid losses and overpayments in those projects.

83. The Delegation of Switzerland thanked the External Auditor for her report and wished to use this opportunity to thank the other supervisory bodies of WIPO, the IAOD and the IAOC for their great and valuable work. The Delegation associated itself with the statement made by Group B and wished to raise the following additional points. Given the fact that the report of the External Auditor arrived late, the Delegation had not been able to examine it with the necessary attention nor benefit from the views of the IAOC on this report as the Committee itself only received a draft copy right at the end of its meeting. The Delegation thanked the IAOC for the preliminary information and comments it gave to Member States on the External Auditor's report, and eagerly awaited the results of the IAOC evaluation at its November session, so that Member States could see better how to assess the various recommendations and the proposed follow-up. The Delegation also hoped that the delays seen this year would not occur again in the future. Generally speaking, the Delegation wished to highlight the importance that the External Auditor should strictly respect the guidelines of the mandate given to the External Auditor and not offer views on more substantive issues going beyond those guidelines and which were the subject of substantive deliberations by Member States, such as, for example, the breakdown of budgetary allocations under various programs. At this point, the Delegation wished to remind the meeting that the purpose of integrating or mainstreaming the DA into WIPO activities was not to have all expenses in one place. These were supposed to be spread out everywhere. It was normal for some expenditures to go where the budgetary allocations had been made. Members had to take a comprehensive view of these activities and how the recommendations were put into practice. Along the same lines, the Delegation pointed out that the implementation of the DA recommendations and the scope of their implementation, as compared to the central activities of WIPO in accordance with its mandate under the Convention, depended on Member States' decisions. Turning to the report in itself, the

Delegation was glad that WIPO's Financial Statements had been given an unqualified opinion, and it congratulated the Secretariat on the good quality of the documents submitted and, in general, on the results achieved in the year under review. Concerning the follow-up on the recommendations and the recommendations themselves, the Delegation hoped that, in the future, they would stick more closely to the framework for the External Auditor's mandate, as the Delegation had already said. It also thanked the International Bureau for the replies already given and the measures already taken, and those that it was going to take to implement these recommendations, and also for its clarifications as regards certain differences of fact. The Delegation repeated that it was looking forward to having the comments of the IAOC on the measures the Secretariat was going to take, so that Member States would have a complete view and be able to provide their comments.

84. The Delegation of Canada thanked both the Secretariat and the External Auditor for their presentations and thorough reports. It also wished to associate itself fully with the statement made on behalf of Group B. The Delegation commended the Secretariat on the External Auditor's unqualified audit opinion on WIPO's Financial Statements. Regarding the External Auditor's report, the Delegation reiterated its concerns expressed, or at least hinted at, in its comments on the findings of the IAOC regarding the small number of country plans related to the total number of countries in which WIPO implemented country programs. For the Delegation, this related to a broader general interest in sound planning and reporting for which country plans were essential, including with a view to the integration of country programs in WIPO's results-based management framework. Further, this also related to the Delegation's previously expressed views to the effect that activities such as country programs should not be for the purposes of Program and Budget documents and the presentation of associated information to Member States, planned and reported on in bulk, under one broad indicator, for example. Again, this was a concern unrelated to the Delegation's concerns about country programs, and the Delegation did have other concerns when comparable activities did not benefit from sufficient planning and reporting. The Delegation added that it would have comments regarding the proposed creation of a separate reserve for the funding of projects once discussion reached the corresponding agenda item.

85. The Delegation of Iran (Islamic Republic of) thanked the External Auditor for the report and the presentation. It welcomed the recommendations, in particular recommendation 5, 6, and 7. It wished to urge the Secretariat to implement all recommendations fully and timely. The Delegation fully supported the statement made by the Delegation of India regarding Program 9. The Delegation asked why the budgetary provisions for Program 9 had been declining since 2008 and why five DA recommendations were included to guide Program 9. It also had a specific question about country plans. The report stated that country plan was a jointly agreed plan, between the country and WIPO, which provided a tailored and comprehensive framework for planning and delivering WIPO's technical assistance to that country within a biennium. The question was why those plans had not been prepared for all respective countries. For example, the Delegation wondered whether Iran's plans had been prepared, and if so, why the Delegation had not been informed about that. If such a plan was not prepared, the Delegation wished to know why.

86. The Delegation of Kenya wished to respond to the statements made by Group B and Program 9. Program 9 was all about development and what had happened was that the Organization had taken a decision to mainstream the DA in all of its work. As a result, some of the activities which had initially been under Program 9 had been moved to other programs to facilitate better mainstreaming. In that regard, it was imperative for Member States to have a very clear understanding that it was not outside the mandate given by Member States to a certain program. Therefore, if Program 9 was about development then the Delegation did not see why there was a problem if the External Auditor referred to the DA because DA was mainstreamed in all of WIPO's work. It meant that, if Member States made a decision to make Program 9 the master plan for the development of the overall agenda for all other programs, it was imperative and unavoidable to talk about the DA. Therefore, the Delegation did not see

why there was a problem, in terms of questioning whether the External Auditor had the mandate to audit Program 9.

87. The Delegation of the United Kingdom thanked the auditors for an interesting and informative report and welcomed the positive audit opinion. It added that it fully supported the Group B statement. On specific recommendations, the Delegation did not support the creation of an additional reserve for financing projects (recommendation 1). This was because separate reserves reduced liquidity and projects should be undertaken if the Organization could afford the cost and they would provide benefits in excess of the cost adjusted for time and risk. Projects should not have to wait until the reserve was built up, nor should there be incentives. Also, a cost-benefit analysis should be included in all major investment decisions and there should be the appropriate risk registers. While the Delegation recognized the issue in recommendation 14 that past performance of a contractor, particularly in respect to projects implemented for WIPO, may be accorded due weightage in the criteria for selection, the Delegation would advise some caution so WIPO did not become captive to a small number of contractors it had worked with before. In relation to the new conference hall, the NCHP clearly raised issues and lessons to be learned. The seemingly divergent views between the auditors and the Organization on some key points and facts were more than unfortunate. It might well be that there had been times when an amicable and jointly agreed separation had been better than a protracted dispute. The Delegation would still expect there to be a clear cost-benefit analysis in a situation where the Organization might be perceived not to have obtained full redress. If there were issues which had made the contractual arrangement contentious, they could only be resolved by a clear contract at the start of the project. However, as recommendation 15 pointed out, when payments were clearly linked to construction milestones, it was easier. Indeed, there would often be disputes, and getting the contract right was a key competence. The Delegation added that it was looking forward to further reports to help clarify the issues it had raised.

88. The External Auditor responded to the questions raised by delegations. She fully agreed with the questions put forward by the Delegations of Kenya, Switzerland, Canada, United Kingdom and Iran (Islamic Republic of) regarding the report. As she had already stated, the matter of reserves was the call which Member States needed to make. The auditors were reiterating that it was a policy of WIPO to utilize the reserves for capital projects. However, it should at least be clear about the amount it utilized. That was the only point. The External Auditor admitted that the report had been delayed and would ensure that such delays did not occur in the future. She recalled that the final draft was ready on August 20 when the auditors had a discussion with the IAOC. She repeated that they would ensure that the report was on time the next time.

89. The Chair thanked the External Auditor for that reassurance and invited the Secretariat to answer questions related to the construction projects.

90. The Secretariat pointed out that the instances of diverging views in the report were all with respect to the narratives and not the recommendations. The Secretariat had accepted all recommendations on the construction project, and wished to make it clear that it would make sure that the lessons learned through this complicated and complex project were highlighted in the final report of closure for next year, especially since it had had to take over midway through the project and become a general contractor itself. Taking on the recommendations was also part of the Secretariat's continuous improvement cycle in these kinds of projects. Of course, with any future projects, the Secretariat would be definitely looking at many of the aspects that had been raised by Member States e.g., the cost benefit analysis. The Secretariat wished to highlight the fact that all WIPO payments to and actions towards the contractor had been made as *per* the contract, and in line with the *Société suisse des Ingénieurs et des Architectes* (SIA) norms and other applicable Geneva, Cantonal and other provisions. The Secretariat also welcomed suggestions that it should have a continuous dialogue with the External Auditor on these various issues. The Secretariat would come back to the next session of the PBC with a

report on these matters. The Secretariat said that the questions raised by the Delegation of Germany on the difference between staying with *Implenia* instead of taking on the work itself with a fixed price contract, was a very difficult question to answer. This was a “what-if” type of question. The Secretariat could explain what the situation had been at that particular point in time. It was, however, very difficult to second-guess where this might have gone from 2012 onwards. The Secretariat was afraid that it was something that it could not answer in that sense. It added that it would have been more expensive because there had been changes and the complexity had become more complex as the project had gone along. Referring to the issuance of the progress report, the Secretariat said that the report had been slightly delayed and had come out only a couple of days before the session for a good reason. It was because the last issue still remaining from the six recommendations by the internal audit, was now closed and the Secretariat was happy to state that, finally, a conclusion had been reached (on August 26) on the amicable termination of the contract with the former general contractor. As a consequence, WIPO now held sufficient funds to cover the cost of substitution works for the new building. Secondly, the former contractor had paid to WIPO the final balance due on the NCHP. In answer to a specific question asked by Member States, the Secretariat stated that WIPO held guarantees with all contractors, so should there be a defect following the utilization of the hall, WIPO would be able to go back and call on those guarantees.

91. Another member of the Secretariat responded to the question on Program 9. Program 9 was one of WIPO's 31 programs. The Program and Budget process was an extensive and intensive process driven by Member States and the Program and Budgets for 2010/11, 2012/13, and 2014/15 had all been approved by Member States. However, as a clarification, the Secretariat added that the mainstreaming in WIPO had moved to a results-based planning and management approach. The mainstreaming of development under all strategic goals had been a constant endeavor, also driven by the DA recommendations and, as already explained, Program 9 was responsible for national strategies and capacity building. It coordinated with several other programs the delivery of technical assistance and development-oriented activities throughout the Organization. In that context, the answer to the question as to why there were only five DA recommendations driving Program 9 was that Program 9 was related to national strategies and capacity building and the five recommendations were the relevant recommendations for this Program.

92. Another member of the Secretariat responded to the question from the Delegation of Iran (Islamic Republic of) regarding the country planning of the Organization, which was also one of the recommendations of the External Auditor. The Secretariat explained that the idea for the country plan was that it be moved away from *ad hoc* activities. The Secretariat had found that a lot of technical assistance activities were carried out in an *ad hoc* manner. The Secretariat wished to have, first and foremost, an IP policy that countries would adopt for developing their IP strategies, and the Secretariat had been very keen that these should truly respond to the development needs of those countries and be coherent in the way they were put together. In this context, the Secretariat had decided that it should have a two-year country plan for each country, and that the methodology for developing that two-year plan would be on the part of that country and that the focal point, usually the IP or the Copyright Offices, would engage and bring in all the relevant stakeholders and stakeholder institutions and elaborate a plan and a strategy for their cooperation with WIPO. On the side of WIPO, all relevant sectors in the Organization that engaged in technical assistance with the country in question would also coordinate and come up with a coherent country plan for that country, for a period of two years, to obviate the need for *ad hoc* requests and activities to ensure that all the activities within the framework of that country plan really responded and fed into the strategic plan for the country. To achieve this, WIPO had developed a template for that purpose. It was still, to a large extent, a work in progress as the final template had been adopted internally during the previous year. The process was a two-way street: not just the Organization but the country itself had to play an important role in developing a country plan and making it work. This was still being rolled out, and each country would have to buy into this methodology for its cooperation with the Organization. To respond more directly to the question of the Delegation of Iran (Islamic

Republic of), as to why a country plan had not yet been implemented for Iran, the simple answer was that this was, as previously explained, a work in progress. The Secretariat added that, in the future, there would be an engagement with the Asia and the Pacific Bureau, to develop or agree on an appropriate plan for Iran.

93. The Delegation of Japan thanked the External Auditor and the Secretariat for their responses to the questions raised. Having heard the answers, the Delegation wished to point out two things. The first point was related to the mandate. The Delegation could not be convinced that the mandate given by the Financial Regulations and Rules could allow the External Auditor to opine on substantive matters lying within the competency of Member States, e.g. the mainstreaming of the DA. The Delegation wished to register that having heard the explanation, Group B's position was maintained. The second point related to the delay in the availability of the report. In this regard, the Delegation thanked the External Auditor for the confirmation that it would not be repeated the following year. The Delegation recalled that its request for explanation of the reason for the delay included a request for the original schedule and the actual schedule, with specific key dates, such as submission of the report to the Secretariat and the date on which the report had been examined by the Secretariat. The Delegation did not see any difficulty in disclosing such concrete information, based on facts, hence such information would be welcomed by the Delegation.

94. The Chair asked the Delegation of Japan whether it wished to discuss the details of the schedule and the reasons for delay in the plenary or whether it would be satisfied with a bilateral discussion on the matter.

95. The Delegation of Japan confirmed that it wished such information to be provided in the plenary.

96. The Secretariat, in response to Group B's question on the timeline, explained that the first milestone was WIPO's submission of the Financial Statements to the External Auditor by March 31, 2014. The external audit of Financial Statements would then take place for four weeks, from April 7 to May 2, 2014. The agreed timeline for the delivery of the Financial Statements' Management Letter was May 30, 2014. Following that, WIPO would reply to the Financial Statements' Management Letter three weeks from the receipt of the Management Letter. Accordingly, the Secretariat's responses would have been provided on 20 June 2014. The date for the receipt of the external audit final long form report was July 15, 2014. The actual timeline for the delivery (by the External Auditor) had been as follows: the External Auditor's Financial Statements Management Letter had been received on June 12, 2014. The external audit compliance Management Letter had been received on June 23, 2014. WIPO had replied to the Financial Statements' management letter three weeks from receipt of the Management Letter. This had been sent on July 2, 2014. The External Auditor's further audit remarks had been received July 10, 2014. WIPO had replied to the further remarks of audit by July 15, 2014. WIPO had replied to the compliance audit management letter on sent July 17, 2014. The external audit long form report's first draft had been received on July 23, 2014, including a request that WIPO's comments be submitted by July 24, 2014. WIPO's comments on the draft long form report had been sent in accordance with the deadline of 48 hours on July 24, 2014. The external audit long form report's second draft had been received on August 14, 2014, and the signed version of the external audit final long form report had been received on August 21, 2014. The date of the publication had been, of course, later than August 21 because the Secretariat had had to prepare Management's responses and to ensure that the report had been sent to translation.

97. There were no further requests for information. However, due to outside time constraints, the Delegation of Japan wished to deliver Group B's statement before decisions on item 5 and 11 were gavelled. Group B welcomed the Organization's revenue of 351.6 million Swiss francs, representing 3.1 per cent increase from the previous year, which was beyond the estimated figure in the Program and Budget, and which resulted in the 15.1 million Swiss francs net

surplus. This was supported by the steady increase in the use of the global IP services and the Secretariat's effort and the latest goals had contributed to this result. Although the Group expected that this would continuously result in the steady increase of revenue, it must be said that the economic situation strongly influenced the revenue of WIPO and therefore it could not be preserved by the Secretariat's efforts, in some cases. Member States should continue taking this into account, as well as its implication on WIPO's revenue, and stand on a safer side in planning the Program and Budget. Group B also appreciated the impact of the implementation of cost efficiency measures and strongly suggested that such efforts be continued. In relation to the financial report and the financial statements, the Group recalled that Member States had requested the Secretariat to report on the measures taken to reduce the long-term liabilities and include this information in the proposal on the management of the funds for ASHI presented to the PBC. Group B would appreciate the Secretariat's clarification in this regard.

98. The Chair read out the proposed decision paragraph for item 5 (Report by the External Auditor), which was adopted.

99. The Program and Budget Committee recommended to the General Assembly and other Assemblies of the Member States of WIPO, to take note of the Report by the External Auditor (document WO/PBC/22/3).

100. The Chair read out the proposed decision paragraphs for item 11 appearing in document WO/PBC/22/5 (Annual Financial Report and Financial Statements 2013) and WO/PBC/22/7 (Status of the Payment of Contributions as at June 30, 2014) respectively. Both decisions were adopted.

#### Annual Financial Report and Financial Statements 2013

101. The Program and Budget Committee recommended to the General Assembly and other Assemblies of the Member States of WIPO, to approve the Annual Financial Report and Financial Statements 2013 (document WO/PBC/22/5).

#### The Status of the Payment of Contributions as at June 30, 2014

102. The Program and Budget Committee took note of the Status of the Payment of Contributions as at June 30, 2014 (document WO/PBC/22/7).

### **ITEM 6 SUMMARY ANNUAL REPORT BY THE DIRECTOR OF THE INTERNAL AUDIT AND OVERSIGHT DIVISION (IAOD)**

103. Discussions were based on document WO/PBC/22/4.

104. The Chair invited the Director of Internal Audit and Oversight Division (IAOD) to proceed with his report contained in document WO/PBC/22/4.

105. The Director, IAOD presented the annual report on the activities undertaken by the IAOD, highlighting the main conclusions of the report on the Division's activities between July 1, 2013 and June 30, 2014. The focus was, in particular, on the independent nature of procedures, as well as on the outcome of audit, evaluation and investigative activities, including follow-up on recommendations and other activities, particularly the external assessment of IAOD activities and the issue of resources. The Director, IAOD recalled that the IAOD was independent and had independently established its program of work for the year and decided on how to organize its work for individual audit, evaluation and investigation assignments. The IAOD produced reports and findings in total independence. These were regularly checked by the IAOC and the IAOD independence had been recently reconfirmed by external bodies. The Director, IAOD noted that being independent did not mean being irresponsible. The IAOD worked in accordance with the various standards that applied to the profession when it came to audit,

evaluation and investigation. The work plan had been prepared in accordance with the Internal Oversight Charter and in consultation with the IAOC as well as WIPO's senior management, reporting to the PBC and to the GA. The IAOD had reached findings in the following main areas: program and project management through various assignments, the Madrid and the Hague revenue generation processes, human resources management, events management, knowledge sharing, and information security; executed through eight audit reports, five evaluation reports, one validation report, and more than 20 investigation reports. The results of the IAOD's work had been very well-received, as stated in the satisfaction surveys regularly undertaken with the IAOD clients. The Director, IAOD emphasized that all recommendations made by the IAOD had been addressed. Many recommendations made during audits and evaluations had already been implemented, indicating their acceptance. The Director, IAOD mentioned that the report provided an overview of the situation at the time when the audits and evaluations had been conducted. Out of eight recommendations in the audit report on Results-Based Management (RBM), three had been implemented, representing 40 per cent being already executed. The rest were being considered within the framework of an action plan. On investigative activities in the course of the period under consideration, 26 new cases had been registered and 16 had been closed as opposed to 16 cases and 28 cases during the previous reporting year. This indicated that, while the number of new cases had remained stable, the IAOD had dealt with those cases in an appropriate period of time. The average cases closure duration in the period covered by report was less than three months, as opposed to six months during the previous period, being shorter than the standards established by the investigation policy and the investigation procedures manual. The Director, IAOD continued on the issue of the follow-up given to the IAOD recommendations. Program Managers within WIPO had implemented recommendations addressed to them and were regularly monitored in that regard. At the time when the IAOD had submitted its report, 141 recommendations had been described as being outstanding by Program Managers, 95 of them were noted as high level risk. The two very high level risk recommendations were related to the physical access to WIPO premises and to fraud within the clocking system. There was no recommendation from the IAOD that was not addressed in terms of implementation by the sector concerned. The Director, IAOD emphasized that the IAOD had also an advisory function to fulfill and quoted on the IAOD giving internal advice on policy formulation, as seen in Annex 4 to document WO/PBC/22/4. An important event for the IAOD over the past year had been the external evaluation of the IAOD audit and evaluation functions. Two exercises had been undertaken and the outcome was extremely positive for the IAOD and WIPO as a whole. The external assessors considered that the IAOD had worked in accordance with professional standards, giving a guarantee as to the work quality and to the procedures being applied when it came to audit and evaluation. The IAOD would have a similar external assessment for its investigative activities. Lastly, turning to the issue of resources, the Director, IAOD, indicated that the IAOD's resources represented 0.75 per cent of WIPO's budget and 0.88 per cent of WIPO's staff which was considered low when compared to other bodies or to ratios of the Joint Inspection Unit (JIU) reports. Available resources had, however, allowed the IAOD to cover high priority areas within the work plan. The IAOD had also been able to undertake a number of evaluation reporting exercises and to investigate cases in such a way as to appropriately manage their case portfolio, and all of this had been done in a way that had been appropriately monitored. Resources appeared, therefore, to be appropriate for the IAOD to do the work in the context of the Organization's current business environment and internal control framework. The Director, IAOD thanked delegations for their attention and expressed his readiness to answer any questions.

106. The Delegation of Mexico thanked the Director, IAOD for the annual report presentation which included all of the elements of the Division's mandate as stated in the Internal Oversight Charter. The Delegation emphasized that the IAOD promoted transparency within the Organization. The Delegation was pleased to see the amendments made to the Internal Oversight Charter, which would allow the IAOD reports to be made public and would strengthen its independence. With regard to the main conclusions and recommendations made by the IAOD, the Delegation wished to see a framework set up and encouraged the Secretariat to



provide information on the implementation of the recommendations. The Delegation added that, with regard to the financial implications, it was concerned by the IAOD's conclusions on the management of staff benefits and entitlements. The Delegation stated that institutional measures must be rigorously applied. The Delegation asked the Director, IAOD if during the audit, any financial losses from the Organization could be quantified that had resulted from non-compliance with Staff Regulations or Office Instructions. Finally, with regard to the implementation of the past recommendations, the Delegation reiterated that some recommendations dealing with high risk issues had been pending for more than two years and should be promptly addressed. The Delegation also made a proposal, as done for agenda item 4, to amend the proposed decision paragraph so that it would correspond to the text of the decision taken on the similar item during the 21<sup>st</sup> session of the PBC.

107. The Chair informed that the proposed amendment to the decision paragraph would be circulated for approval.

108. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, expressed its continued support for the IAOD, and thanked the Director, IAOD for a comprehensive report. The CEBS Group was well aware of the importance of the activities of the IAOD for WIPO, in particular in respect of internal audit and evaluation of WIPO's control systems, programs and projects and business processes, monitoring and measuring of the effectiveness of WIPO's control environment, effective and efficient use of resources, investigation and so on. The CEBS Group appreciated the work done by the IAOD during the period under review. The Group also supported the Secretariat's efforts towards practical implementation of the IAOD's recommendations. However, in the Group's opinion, these efforts should have been further enhanced as the current number of open recommendations seemed to be rather high. The CEBS Group encouraged the IAOD to continue further improving its activity and efficiency. The IAOD contributions to the Organization were significant, thus this importance should have been better reflected in the relevant budget chapter.

109. The Director, IAOD thanked the Chair as well as the Delegations of Mexico and the Czech Republic who spoke in respect of their support to the IAOD's work. The Director, IAOD continued by taking up the issue of the outstanding recommendations, mentioning that the comparison was between 105 open recommendations the previous year against 110 recommendations the current year, which represented a very slight increase. However, when one compared, counted and deducted the recommendations that had already been implemented, that is, all the recommendations in the External Auditor observations, the recommendations made to the IAOD by the external auditors (around 30), the resulting increase was very slight. The top priority high risk recommendations had been outstanding for a number of years. The IAOD had been very much aware of these few recommendations and had tried to focus on them from the outset. The very high risk recommendations related to the IT sector and to the physical access to WIPO, and they took time to implement because of funding. Those recommendations were close to completion, as might have been noted by delegations when they accessed the new building. The Director, IAOD raised the issue of the benefits paid to staff. The audit had been done to verify if those payments had been in line with the appropriate procedures and contracts issued by the Secretariat. The audit of staff benefits and entitlements had noted that, when looking at education grants and housing subsidies, there were no particular anomalies. However, the audit had noted that sometimes payments had been made based on the documentation that was not the one prescribed by the rules. When that point had been brought to the attention of the Human Resources Management Department, the Department had taken prompt action. The Secretariat had taken appropriate measures and had called upon every staff member to ensure that the certificates submitted to justify the granting of benefits were appropriate and in line with WIPO standards. The Director, IAOD added that the IAOD and the IAOC dealt with these issues jointly.

110. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Director, IAOD for his report and the good work. The Group raised a few issues in regard to the report.

First of all, in regard to the country portfolio evaluation, paragraph 21 of the document, stated that the various programs in Thailand had been found not to be prioritized as part of consolidated country plans or frameworks. Further, the Group noted that WIPO activities had not contributed to building of capacities because of the lack of in-depth assessment and planning. The African Group asked what the Secretariat was doing towards this particular recommendation and what the IAOD's views were. Secondly, paragraph 27 noted that WIPO Program 1, notwithstanding the delivery of all of its key results as *per* the Program and Budget, had only made modest progress towards achieving its overall objective, which was progressive development of balanced international law and practices. The African Group considered this to be a very pertinent observation by the IAOD, given that, at the end of the day, it was not really the efficiency that mattered but also the results. The Group asked how the Secretariat intended to address this issue - to have more outcomes in regard to this particular Program - especially the balanced normative framework. Thirdly, on the issue of human resources management and, in particular, the issue of the VSP, the Group noted that the IAOD recalled that the proposal by Member States had been that vacated posts should be used to recruit skills and competencies not available internally. Further, the Group noted that the Secretariat's proposal not to replace the posts of long-term serving employees (resulting in the net reduction in headcount) had not happened. The Group was also interested to know how the principle of geographical representation was adhered to in filling the 87 vacated posts. The African Group requested a breakdown of staff, recruited by region and country. Finally, on open recommendations, the Group considered this to be a serious problem given that the number of outstanding recommendations had been consistently high. Therefore, it asked the Secretariat to take the issue seriously and requested the IAOD to continue to follow up on those outstanding recommendations.

111. The Delegation of Japan, speaking on behalf of Group B, thanked the IAOC, the IAOD and the External Auditors for their cooperation. The Group acknowledged the critical role of the external audit and the IAOD in the efficient use of resources in WIPO. In this regard, Group B thanked the Director, IAOD for providing document WO/PBC/22/4. With respect to investigations, the Group appreciated the fact that the average duration of cases closed during the reporting period was half of the duration in the previous reporting period. The Group considered the issuance of Investigation Policy and of the revised version of the Investigation Procedures Manual as significant achievements of the reporting period, which contributed to more transparent and neutral investigations. The Group also appreciated internal oversight by the IAOD in many fields, including the Madrid and the Hague revenue generating Systems, which were core parts of WIPO's work and performance management. With respect to Madrid and the Hague Systems, Group B welcomed the finding that strategy documents to define a roadmap for the medium to long-term needed to be prepared and approved. In this respect, Group B requested additional information on the strategy documents, including accessibility to those documents. Both Systems had to be operated in a sustainable manner, both for the users and the Organization, as well as in a manner which met evolving demands. An effective fee structure, plus improvement and appropriate human resources allocation were fundamental components, as were customer services and quality control to which due attention had to be paid. Group B strongly supported the Madrid and the Hague Systems IT review and supported the idea that a post-implementation review of the project be undertaken when the project was completed. Group B recommended that WIPO undertake reviews after every project and feed the findings into an initiation meeting for a subsequent project. This would not only facilitate ongoing learning but also help to avoid repeating the same mistakes and would ensure that the opportunity to profit from the elements that had gone well was not missed. The Group expected the Secretariat to sincerely consider the recommendations for those important subjects. As for performance management, Group B was glad to see that the IAOD's recommendations on result-based management had been observed and that internal management had improved. The Group welcomed the Secretariat's proposal for an accountability framework that was being presented at the present PBC session. Group B expected that further improvement could be done in this field through the implementation of the IOAD recommendations, including annual RBM overview orientation for Member States' representatives. With respect to WIPO Funds-in-

Trust (FIT) management, Group B welcomed the finding that there was a high level of compliance with the established procedures for initiating, approving and recording transactions related to FITs and supported the IAOD recommendation to develop a formal strategy for management, and a depiction of FITs with wider objectives. Group B referred to the country portfolio evaluation, stating that some shortcomings related to the linkage of WIPO projects with national priorities and the lack of exit strategies had been highlighted, which undermined the long-term sustainability of projects and showed that a mitigation strategy had to be developed. Additionally, regarding human resources management, the Group noted that particular attention had to be paid to make sure that practices regarding staff benefits fully conformed with WIPO regulations. Finally, Group B commented that fraud prevention and assessment was a key activity for departments such as the IAOD, and the Group was pleased to see that initiatives such as the Hotline were being used. It urged the IAOD to continue its vigilance. The Group supported the implementation and mainstreaming of fraud prevention where possible, taking practical steps to enhance fraud prevention, and proposed tailored mandatory training for staff in high-risk areas along with general training for all staff.

112. The Delegation of the United States of America supported the statement made on behalf of Group B. The Delegation expressed its appreciation for the hard work of the IAOD. The Delegation encouraged the Director General to implement the IAOD's recommendations in a timely manner. The Delegation was pleased to read that the VSP, between October 2009 and June 2010, resulted in cost savings, helped to close skill gaps and contributed to realigning WIPO's staffing with organizational needs. The Delegation encouraged the Director General to continue pursuing opportunities for savings. The Delegation also encouraged WIPO to follow the IAOD's suggestion to prioritize the development and implementation of a formal accountability framework to consolidate the current structure and improve overall organizational governance. The Delegation looked forward to learning more about WIPO's accountability framework during discussions on agenda item 14. The Delegation was concerned by the IAOD's comments regarding the lack of effective information and knowledge-sharing across sectors. The Delegation encouraged the Secretariat to take steps to develop organization-wide tools and processes to facilitate content management and clarify roles and responsibilities with regard to records keeping. Lastly, the Delegation indicated that regular training on ethics was vital for maintaining a culture of integrity. The Delegation noted (in document WO/PBC/22/4) that 69 per cent of complaints received during the reporting period pertained to harassment, discrimination, breach of international civil servants obligations and irregular human resources practices. The Delegation, while being aware that WIPO required mandatory ethics training for all staff in 2012 and 2013, encouraged the Organization to facilitate this practice by follow-up and refresher courses.

113. The Delegation of Australia thanked the Director, IAOD, for the efforts undertaken by the IAOD and the process of implementing the recommendations. The Delegation recommended addressing the IAOD's recommendation for a more formal strategy for FITs activities: activities that provided for greater transparency on recipient needs prevented duplication of donor resources and assisted WIPO in the Program of activities. In addition, the Delegation agreed that there could be better alignment of FITs activities with the broader WIPO agenda and objectives. The Delegation indicated that Australia FIT was a valuable program and that Australia was pleased to be part of that program.

114. The Delegation of Germany thanked the IAOD for the report. The Delegation fully endorsed the statement made by Group B and attached great importance to the independent work of the IAOD, a point that would be developed further under agenda item 7. The Delegation noted that 141 recommendations were still open, including 95 on high risk issues, and encouraged timely implementation of all recommendations. The Delegation suggested to change, or make an addition to, the wording of the PBC decision along the lines suggested by the Delegation of Mexico for agenda item 4, which was similar to the decision adopted by the last session of the PBC in regard of the IAOD report (document WO/PBC/21/21).

115. The Delegation of Spain echoed the statement made by Group B and thanked the Director, IAOD for the quality of the reports and the work done. The oversight work done with various high quality reports reflected well on the Division and on the Secretariat. The Delegation referred to a number of specific points of interest, stating that many points that other delegations had brought up were also of interest to the Delegation. The Delegation recalled one of the recommendations, regarding evaluation of projects carried out in a given country over the past years that might have had some deficiencies. Those deficiencies were in the external evaluation reports which had been debated and studied in the CDIP. The Delegation noted that the deficiencies persisted and suggested that another body, perhaps the CDIP, could study those deficiencies and propose appropriate measures to correct them to avoid repetition in the future. Regarding human resources, the Delegation examined the report with deep interest and shared the views of other delegations. Regarding the VSP, the Delegation was not sure whether the indemnities received by those who accepted the VSP were compatible or incompatible with the practice in other UN organizations. The Delegation considered that if that was a possibility, then the savings made by WIPO might not have been savings for the UN as such. The Member States of WIPO, who were also Member States of other organizations, could, therefore, have a view on that matter. The Delegation stated the importance of the work and the follow-up carried out by the IAOD and hoped that its upcoming reports would be easily accessible to the public at large.

116. The Delegation of Canada thanked the Director, IAOD for the preparation of the rigorous report. The Delegation, as other delegations, was concerned by the general and systemic nature of comments under paragraph 21 of report, related to country operations, stating that WIPO activities had not significantly contributed to the building of capacity at the national level because of a lack of in-depth assessment and planning. The Delegation believed it highly important for good governance to plan activities and have results-based management, and that was the area where the Delegation's concerns were. The Delegation put forward the following questions to the IAOD: What type of independent evaluation mentioned in paragraph 19 of the report had been carried out? Was this something that had been carried out country-by-country? Had it been a regular activity? Was the problem with the absence of country plans a recurrent one? In conclusion, the Delegation encouraged the Secretariat to take appropriate measures to change the situation and also look at other problems raised in the IAOD report.

117. The Delegation of Italy congratulated the Chair and the Vice-Chairs on their election. The Delegation aligned itself with the statement of Group B. The Delegation thanked the Director, IAOD for the summary annual report, the work carried out by the IAOD and the laudable results achieved during the reporting period. The Delegation commended the cooperation between the IAOD and the other oversight bodies and the constructive dialogue established between the IAOD and WIPO Management. The Delegation praised the audits and the evaluations conducted by the IAOD as well as the action already taken by the Secretariat on the recommendations contained therein. The Delegation encouraged the Secretariat to take on board the findings of the IAOD reports, particularly those that aimed at further strengthening the results-based management, achieving efficiencies, and avoiding financial losses to the Organization.

118. The Delegation of France wished the Chair good luck in conducting the PBC proceedings. The Delegation associated itself with the statement made by Group B and other countries from the Geneva Group, whose comments had been prepared collectively and were endorsed by the Delegation. The Delegation had no doubt of the excellent package of measures put by the IAOD and considered that the work done by the IAOD did great honor to the profession. On the accessibility of reports, the Delegation considered that it was something that kept coming up and that Member States had to see how to improve access to information: the general public had been mentioned during the discussion, but staff members were also important. The Delegation stressed the importance of the staff getting access to the reports. The Delegation acknowledged that oversight reports were available but, with heavy agendas, it was not always easy for delegations to come to WIPO to consult them. Having special codes or passwords for

web access would allow delegations to keep track of the follow-up given to the different recommendations. The Delegation suggested using online implementation tracking, with a table allowing users to click on a chosen item and see the progress as the year went on. With regard to External Offices, the Delegation noted that that subject had rather exploded during last year's PBC and the Assemblies, with a lot of ambassadors and heads of delegations asking what the EOs were, what the three existing ones were doing and if there were any reports about them. The Delegation had contacted the French representations in different countries and had them explain what the EOs were doing. The Delegation suggested that the IAOD include EOs in its scope of activities, resources permitting. The Delegation commended the IAOD's independence and professionalism as well as its excellent job. While congratulating the IAOD for its work which, in turn, made the work of delegations a lot easier, the Delegation said that it would continue to follow the IAOD's work with great attention.

119. The Delegation of the United Kingdom congratulated the Chair on his election. The Delegation thanked the IAOD team for preparing the annual report and was pleased to see the progress made in several areas. The Delegation commended the IAOD team on their efforts. The Delegation, while endorsing the statement made on behalf of Group B, announced it would make some additional points. On performance management, the Delegation agreed that good progress had been made but that it would like to see a continued drive to look at impact-based results. With respect to the country portfolio evaluation, the Delegation noted there were some lessons that should be incorporated into any future similar projects. Likewise, with the work on FITs and Patent Law, there were some recommendations that the Delegation would like to see implemented. The Delegation noted with some disappointment the comments made on human resources management and the staff separation exercise. The Delegation considered it essential that, where the financial processes were in place, they be followed. The Delegation said that it would welcome if the lessons learned from this exercise, and any future exercise, followed the prescribed format. The Delegation supported the recommendations on the pilot program for rewards and recognition as good efforts to award and recognize excellence. It supported the expansion of the program to include rewarding teams. With respect to the information security and data migration, the Delegation congratulated WIPO for achieving its ISO certification. The Delegation noted that the lessons learned from exercises where problems were encountered in the data migration had been highlighted and hoped that sharing those findings would prevent the problems from happening again. Knowledge-sharing had not made as much progress as the Delegation had hoped. Technology played an important part in that, but it was ultimately the people who shared knowledge. Making it easy for people to communicate between each other would achieve that goal. This could be helped by the use of different mediums: some excessively simple such as posters and seminars, other more technology-based. Further work needed to be done, as "Working as One" was a core value of the SRP and the Delegation looked for updates to this. With respect to events management, the Delegation fully agreed with the need to plan and book travel early to maximize on the discounts available and use alternative conferencing means such as webinars and video conferencing.

120. The Delegation of Japan, speaking in its national capacity, thanked the Director, IAOD for his explanations which provided a comprehensive overview of the IAOD's work and thanked the Secretariat for its continued efforts in implementing previous IAOD recommendations. The Delegation shared the view that the importance of internal oversight should not be underestimated in order to ensure sound management in any organization and really enforce the Organization's activities. In this regard, the Delegation appreciated the fact that the Secretariat had been addressing the IAOD recommendations as well as the fact that sufficient resources had been allocated to the IAOD, compared to the previous biennium. Among the various findings and recommendations, the Delegation underlined the importance of the Madrid and the Hague Systems in terms of generating revenue. The Organization was continuously adapting to the current landscape and the Delegation considered it good to accommodate changing and expanding needs of users of the global IP system. As for the FITs management, the Delegation noted the importance of improving the effectiveness, efficiency and relevance of

the FIT activities to the regular Program and Budget. Therefore, the Delegation supported the need to formulate a formal strategy on extrabudgetary resources, including the FITs. The Delegation recalled that, as the largest donor country, it would continue to cooperate with WIPO for that purpose

121. The Delegation of South Africa indicated its support to the intervention made by the African Group. Similar to the Delegation of Germany, the Delegation expressed its concerns about the status of the implementation of previous IAOD recommendations and the fact that 95 of the outstanding recommendations were of high risk. With regard to the evaluation of Program 1, the Delegation said it was concerned that the Program had only made modest progress and would welcome work towards a more normative, balanced framework.

122. The Delegation of Barbados joined others in congratulating the Chair on his chairmanship. The Delegation noted the IAOD's efforts made during the year and acknowledged the importance placed on dialogue within the system. However, the Delegation joined those who mentioned the need to make the oversight plan consistent with the WIPO policy and program priorities, so as to facilitate a better approach to results-based management. The Delegation noticed with satisfaction that all recommendations had been addressed by the Management through a plan that suggested approaches; however, the Delegation also noted that 141 recommendations were recorded as outstanding, including 95 that addressed high risk issues. The Delegation further noted the need to address open recommendations. In closing, the Delegation commended the IAOD Director and his staff for the laudable work done and wished them well in their continued efforts.

123. The Delegation of the United States of America informed that, under item 7, it planned to propose suggestions to improve the Internal Oversight Charter draft and since it had made those in writing, copies of those were available at the documents desk for interested delegations.

124. The Director, IAOD responded to the delegations' questions. He thanked delegations for expressing their support for the report on the IOAD activities. He announced that he would convey those positive comments and appreciation to the IAOD staff responsible for the work. The Director, IAOD remarked that many comments had been made on the number of open recommendations, which was a matter of concern for Member States. He said that the number of recommendations left pending changed from year to year but the figure needed to be put into perspective: last year, there had been 94 pending recommendations, at present 195 were still open and pending. However, between September 1, 2013 and the present, 94 recommendations had been closed. It was not that no progress had been made in the implementation of recommendations but that there was an increase in the number of recommendations issued. More recommendations had been closed between September 1, 2013 and September 1, 2014, than there had been open in 2013. There had been an increase because the total number of recommendations over that period of time had also increased considerably – practically 200 recommendations had been issued between September 1, 2013 and September 2014. Turning to the independent evaluations, the Director, IAOD explained that independent evaluations, such as the country portfolio evaluation in Thailand, had been done by the IAOD. They were independent of the other programs of the Secretariat. As for the assessments of the country evaluations, the Director, IAOD explained that there was a concern, as expressed in the report. This concern was valid for WIPO activities in Thailand and Kenya (which was the previous country portfolio evaluation) and related to the lack of documentation as to the strategy and planning of WIPO country activities. The IAOD had noted the absence of documented country strategies in previous years and that there had been *ad hoc* responses to the demands made by the countries concerned. The Director, IAOD, however, mentioned that the absence of such strategies had occurred in a context where the Organization's results-based management had not been at the same level of quality as it was now. The change was noted in the upcoming portfolio evaluation, which would start in the next few days in a Latin American country, where the IAOD found documentation for strategic

planning of its interventions. On Program 1 results, the Director, IAOD explained that the evaluation had been done in relation to the Program and Budgets for 2010/11 and 2012/13. The evaluation's conclusion was that, notwithstanding the delivery on all its key results as *per* the Program and Budget, Program 1 had only made modest progress towards achieving its overall objective, i.e., progressive development of balanced international law and practice. Turning to the VSP, the Director, IAOD referred to the HRMD upcoming report but indicated that the IAOD had not done an analysis of geographical distribution and the access to other international organizations, an issue that had two dimensions. There was either a pre-retirement mechanism or a package mechanism for those who were not at the age of pre-retirement. For the first category, it was clear that they could not be employed in another international organization but, for the other option, there was a seven year limitation specified in the agreement. On the implementation of the recommendation for the Madrid and the Hague Systems (request made by Group B) to access the business plan required by the recommendations, the Director, IAOD suggested that the interested delegations approach the Madrid and the Hague Systems and ask for those documents. On the evaluation of knowledge management in WIPO, the IAOD had made a number of recommendations. To implement the recommendations, a working group comprised of the various sectors of the Secretariat and the IAOD had been set up to define a detailed Plan of Action, with well-defined responsibilities, by the end of October or the beginning of November. On the access to audit and evaluation reports, the Director, IAOD explained that, if the Member States approved the revisions to the Internal Oversight Charter, public dissemination of audit and evaluation reports would no longer be an issue. At present, the Director, IAOD recalled that any Member State wishing to access an audit or an evaluation report could simply do so by contacting the IAOD which would provide access to an electronic copy of the report in a secured environment. As for the audit and the assessment of EOs' activities, the Director informed Member States that the IAOD had not included such review in its 2013 plan but it would consult with Member States when developing its work plan for the coming year, and would look at whether it would be relevant to have an audit of EOs.

125. The Secretariat provided additional responses. First, it stressed that it did not want to leave Member States with the impression that the Secretariat, or the Management, did not take oversight recommendations seriously. The Secretariat indicated that it actively engaged in reviewing open recommendations using various systems, e.g., the Teamcentral system, which the IAOD provided, where the Secretariat constantly monitored, and IAOD constantly gave feedback, on the open recommendations and why they were open. The Secretariat and the IAOD had frequent discussions on these open recommendations. The Secretariat then referred to the JIU web-based tracking system, which allowed monitoring the status of open JIU recommendations and which Member States were welcome to use. The Secretariat further underlined that, as mentioned by the Director, IAOD, the number of closed recommendations was often outpaced by the number of new recommendations that the IAOD issued in a given year. The Secretariat said that one should not look at the absolute number of open recommendations at any given time because that in itself did not actually give the kind of granularity that the Director, IAOD had shared with the PBC in his remarks. Turning to the recommendations which Member States considered had been open for too long, the Secretariat explained that, by necessity, they needed to remain open, for example, two recommendations related to the IT systems would take time to close, such as the recommendation on the Enterprise Resource Planning System which was well on its way, advancing in phases to be implemented and, as a result of that, one of the high priority ones would be closed. The other old high priority recommendation concerned the security perimeter, which was being addressed as could be seen by Member States who must have noted the speed gates installed in practically all of the entrances. The Secretariat confirmed the ongoing dialog with the Director of IAOD and that, in addition, the IAOC had been very helpful, as seen from the IAOC report which addressed this issue and commented on how the review and the dialog that Management had with the Director of IAOD on many of the outstanding reviews had been facilitated. The Secretariat then responded to comments on the VSP and geographical diversity. The Secretariat indicated that out of the 87 staff Members who had left as a result of the VSP

in 2010 and 2011, 66 per cent were from Western Europe, 8 per cent from the United States of America and Canada, and 26 per cent from other regions. However, of the 87, the only one third, i.e., 29 were in the professional and higher categories, which were the relevant categories for geographical diversity. The Secretariat drew Member States' attention to Annex II of the Human Resources Annual Report (WO/PBC/22/11), which showed a general trend: in 2009, the Western European component of the work force had been 54.5 per cent, whereas in June of 2014 it was below 50 per cent. The Secretariat considered the figures helpful even if the trend could not be attributable to a specific factor. Concerning the VSP and the UN System-wide cost savings, the Secretariat explained that agreement had been reached, and endorsed by the Coordination Committee, that the staff leaving under the VSP would be barred from re-employment by WIPO under any type of contract for a minimum of seven years, and that any exceptions to rule were to be reported to the Coordination Committee. The Secretariat announced it had not made any exceptions; no staff separated under the VSP had been re-employed. This employment restriction, however, was limited to WIPO and was not extended to other international organizations. The Secretariat considered that, in practice, it probably would have been impossible and not even legal to restrict re-employment to other international organizations. Regarding the alignment of WIPO's practice with other UN organizations, the Secretariat was aware that there was an inconsistency between how WIPO paid certain dependency benefits and the practice in other UN organizations but, following legal advice on the issue of acquired rights, the Director General had approved a strategy to correct the situation and fix the problem. On human resources issues, the Secretariat confirmed that there had been no payments of benefits and entitlements, which were not due to staff, but that there had been some problems with regard to documents that had to be submitted and some other procedural matters, which were being addressed. The Secretariat announced that, in the first quarter of 2014, an Enterprise Performance Management system had been introduced in Human Resources, which would allow WIPO to get a better hand on these control systems. The Secretariat came back to the issue of follow-up on open recommendations and explained that at the end of every audit and evaluation, the Secretariat prepared a management action plan which was the subject of a continuous follow-up process, including closure criteria (defined in consultation with the IAOD) on the basis of which the recommendations would be closed. Turning to FITs, the Secretariat reminded delegations that FITs constituted a small portion of WIPO's resources. However, the Secretariat acknowledged the importance that Member States attached to FITs and said that the Secretariat was working on a comprehensive policy framework to manage, administer, and implement the program of work under FITs. The Secretariat also recalled that WIPO was increasingly integrating FITs reporting into the Program and Budget proposals, in the interest of transparency that had been called for by several Member States. While these were not subject to approval, they provided additional reference and clear information on what FITs resources were available for, and also increasingly linked the FITs activities to the results of the Organization in the most substantive and systematic manner. Turning to the Thailand Country Portfolio Evaluation, specifically the issue of the lack of a consolidated framework in relation to the activities that were in Thailand: the Secretariat explained there were actually two frameworks related to the national IP strategy in Thailand, the innovation strategy, and the creative Thailand strategy. However, the Secretariat acknowledged that there was room for improvement in terms of aligning WIPO activities to these two frameworks. The Secretariat informed that it had taken that into consideration and had exerted effort to enter into the planning process of the country of Thailand in order to create an integrated solution to the entire plan. Regarding the lack of in-depth assessment to address certain changes and have an exit plan of the project, specifically with regard to the branding project, the Secretariat indicated that it took this recommendation seriously.

126. The Chair read the proposed decision paragraph for item 6, amended in accordance with what had been agreed during discussion on decision text for item 4.

127. The Delegation of Australia agreed with the proposed wording and clarified, however, that it would welcome, and continued to expect, an ongoing dialog between WIPO's oversight bodies and Management, in order to ensure that the Organization achieved its objectives in the



most efficient and effective manner. The Delegation valued the important role of oversight bodies and the expertise of their members but recognized that there might be circumstances where it was not practicable or necessarily the best solution for WIPO's Management to implement specific recommendations in full. In this context, the Delegation stated that it did not take the view that the Organization must, as a matter of course, implement each and every recommendation addressed to it by oversight bodies. However, in cases where Management decided not to fully implement or not to implement a recommendation, the Delegation expected WIPO's Management to be able to provide an adequate explanation and justification for that decision.

128. The Chair thought that many delegations shared the views of the Delegation of Australia. Coming back to the approval of the decision paragraph, the Chair asked if there were any objections to the proposed text. There were no objections and the following decision was duly adopted:

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

- (a) take note of the content of document WO/PBC/22/4 (Summary Annual Report by the Director of the Internal Audit and Oversight Division (IAOD)); and
- (b) request the Secretariat to continue to take appropriate action in response to the IAOD recommendations.

130. The PBC also requested the Independent Advisory Oversight Committee (IAOC), in accordance with its mandate, to continue to review and oversee closely the implementation of the recommendations and continue reporting on the matter to the PBC.

## **ITEM 7 PROPOSED REVISIONS TO THE INTERNAL OVERSIGHT CHARTER**

131. Discussions were based on document WO/PBC/22/22.

132. Prior to the opening of this item, the Delegation of the United States of America had circulated a document with amendments that it would propose under this item.

133. The Vice-Chair of the IAOC, and a Committee member also representing the IAOC, presented the IAOC-proposed revisions to the Internal Oversight Charter as contained in document WO/PBC/22/22. The IAOC member said that the revisions implied some fundamental changes to oversight at WIPO, including: a change to the name of the Internal Audit and Oversight Division to Internal Oversight Division (IAOD); clarification of the mandatory nature of the applicable standards for internal audit, evaluation and investigation; strengthening of the IAOC's involvement in the preparation of IAOD's work plan; the insertion of a new section on "conflict of interest"; and, extending the possibility of complaints of alleged misconduct to "any other internal or external party". He said that the most visible change was public access to IAOD audit and evaluation reports. Other revisions included increased interaction between IAOD and other assurance providers, such as the Ethics Office and the Ombudsperson, and an extension, for future incumbents, of the non-renewable term of office of the Director, IAOD to six years.

134. The Delegation of Kenya thanked the IAOC. It welcomed the proposed changes, which would enable Member States to be able to oversee the Organization effectively. Referring to Annex II of document WO/PBC/22/22, the Delegation asked why "*inspection*" had been deleted in row 3 of the comparative table in Annex II. In its view, "*inspection*" should be retained, for example, in the context of building construction as inspections could provide a way to remedy

problems through corrective measures without the need to proceed to a full audit, evaluation or investigation exercise. It also asked why the reference to evaluation of extra-budgetary activities had been deleted in row 7. In its opinion, such activities could be a candidate for evaluation. Regarding proposed revised paragraph 9(a), in row 13, it asked for clarification of the explanatory note "*Oversight activity does not ensure but assess whether compliance is achieved.*" Depending on the clarification provided, the Delegation said that it might propose some amendments. It sought clarification similarly on the rationale for the proposed deletion of sub-paragraph 15(f), in row 47, and also asked why investigation was not mentioned in rows 53 and 54. Finally, it wished to understand the rationale for proposed new paragraph 45, which related to the performance appraisal of the Director, IAOD, to be made by the Director General after receiving input from, and in consultation with, the IAOC. This provision was not in the present Charter and it wished to know why the work of the Director, IAOD should be subject to a performance appraisal by the Director General.

135. The Delegation of the Republic of Korea, speaking in its national capacity, appreciated the IAOC's proposed revisions to the WIPO Internal Oversight Charter. It said that many of the proposed revisions showed significant progress as regards access by Member States to the IAOD reports, and wished to seek additional clarification and information as regards such access. The Delegation was aware that there were differences between investigation reports and other IAOD oversight reports. However, in specific and relevant cases, Member States might have a sincere interest in reviewing investigation reports. The Delegation's first question was how investigation reports could be made available to Member States, on the basis of current provisions or the IAOC's proposed revisions. A second question was whether the IAOC could provide more information on the practice in other international organizations as regards accessibility for Member States to investigation reports. The last question related to the difference between the current and the proposed revisions as regards accessibility to investigation reports. The Delegation wished to thank the Delegation of the United States of America for its proposed amendments, and believed that there would be constructive discussions on this issue.

136. The Delegation of Mexico expressed its gratitude to the IAOC for the proposed revisions to the Internal Oversight Charter, which it supported. It congratulated the IAOC members who had worked closely with the Director, IAOD. From the Delegation's point of view, the revisions provided greater clarity on functions and attributes and would result in better use of resources and improved internal oversight in WIPO. The Delegation found it particularly important that, with the changes proposed, WIPO would become one of the UN agencies, which included the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the UN Secretariat and the World Food Programme (WFP), that made oversight reports publicly available. The Delegation was examining the amendments proposed by the Delegation of the United States of America, some of which appeared to be relevant and which provided greater clarity. The Delegation wished to request, through the PBC Chair, that any additional amendments proposed by delegations under this item be circulated in writing so that Delegations could study the texts in detail.

137. The Chair thanked the Delegation of Mexico for its clear and logical request.

138. The Delegation of Japan, speaking on behalf of Group B, also wished, at the outset, to thank the IAOC for its review of the WIPO Internal Oversight Charter and its proposed revisions, and to thank the Secretariat for preparing document WO/PBC/22/22, which reflected those proposals. Group B noted that it would have been preferable for the IAOC to have presented its revisions to Member States earlier in the review cycle. In this case, Member States had been given roughly a month to review and provide comments that could not be incorporated in a second revised version because of the close proximity of the IAOC's session to this PBC session. Group B welcomed the IAOC's proposal as a step towards improving internal oversight, in particular the proposed revision relating to the granting of public access to audit and evaluation reports. These reports included much useful information that were not limited to

recommendations alone, and which would contribute to further improvement of the Organization's work. The improved transparency and accessibility to information as a result of this revision could serve towards more effective use of the results of IAOD's work to the better functioning and governance of the Organization. The Delegation sought clarification for the reasons behind the proposed revisions relating to the appointment of the Director, IAOD. It said that, according to the IAOC's proposal, endorsement by the IAOC of the appointment of the Director, IAOD was no longer necessary; the IAOC would just be consulted on this issue. Group B wished to know the reason for this change. Additionally, it also wished to know the reason for change proposed on the procedure for the dismissal of the Director, IAOD.

139. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, thanked the IAOC for its review of the Internal Oversight Charter and the Secretariat for its contribution. For the CEBS Group, increasing transparency and accessibility of information was essential to its work in the Organization. The Group was, therefore, fully in a position to recommend to the GA the approval of the proposed revisions, which it believed would contribute to the fulfillment of the IAOD's goals.

140. The Director, IAOD, responded to the comments raised on definitions. On the question concerning inclusion of "*inspection*", he did not have any difficulty with this even though he thought it unnecessary for the type of work that the Delegation appeared to be referring to, i.e., a brief review to try to resolve certain problems very quickly. He thought that the definitions of audit, evaluation and investigation covered this. He could not think of any actual cases where the word "inspection" would have had to have been included as a definition in order to carry out such a brief review and assessment of any activity. The concepts of audit and evaluation were quite comprehensive. On the deletion in paragraph 7(b) of "*extra-budgetary activities other than projects, programs and policies*", on page 3 of Annex II of the document, he said that the definition of evaluation in the Charter had been taken from part of the standards of the United Nations Evaluation Group. It was not a mandatory part of the revision of the Charter. In his view, if a specific activity needed to be looked at, this could be done under the project category. However, if the PBC thought that a reference to extra-budgetary activities did need to be added, he would not have any difficulties with this. As for retaining "cost effective control", on page 5 of Annex II, based on his experience, his feeling was that this was unnecessary. IAOD's role was not to manage on behalf of colleagues who bore that responsibility. Rather, its role was to propose improvements for the management of programs and projects. Retaining the phrase could give the impression that IAOD had responsibility for management, whereas its function was not to undertake any management responsibilities but rather to make suggestions to improve management. As regards sub-paragraph 47(c), which referred to "assets", he said that the chapeau of paragraph 41, on page 13 of Annex II, included a definition that stated that the Director undertook such and such an activity, and that this list was not exhaustive. Turning to paragraphs 33 and 34, on procedures used and expectations, he said it concerned the establishment of facts. In establishing facts, IAOD did not expect an action plan and it was for IAOD to point out lapses. This was why audit and evaluation reports were not dealt with in the same way as investigation reports. Referring to new paragraphs 29 and 30 on pages 16 and 17, he said that paragraph 30 dealt with the form for investigation reports.

141. The IAOC member, referring to the question regarding the need for a performance appraisal for the Director, IAOD, said that providing feedback to the Director on the quality of his/her work was best practice. The IAOC's involvement in the process was to ensure that feedback did not impact on the Director's independence.

142. The Delegation of Kenya thanked the Director, IAOD and the IAOC member for their extensive answers. He wished to add that a revision to the procedural ordering could perhaps be considered in paragraph 45, and that the performance appraisal could perhaps be carried out by the IAOC in consultation with the Director General. The Delegation was not sure if this made sense but the purpose was to ensure independence and to avoid a situation where the Director IAOD was graded poorly or highly depending on the kind of audit reports produced.

The Delegation said that it did agree on the need for the Director, IAOD to have feedback in terms of performance. In this regard, the IAOC could be the body to head such an exercise. Changing the ordering of the paragraph to read “the IAOC in consultation with the Director General” could ensure independence.

143. The IAOC member said that the IAOC was an advisory body that only met for a week four times per year, and that this needed to be taken into account as regards the IAOC’s ability to undertake operational activities. In addition, there were certain legal aspects to the performance appraisal process, which the Director, IAOD could explain, and which would also clarify why it might not be practical for the IAOC to lead this two-step process.

144. The Director, IAOD said that the staff and Director of IAOD worked for the Organization as staff members and therefore WIPO’s Staff Regulations and Rules applied to them, including for performance appraisals. The performance appraisal procedure in WIPO provided for goal-setting at the beginning of the appraisal cycle, a mid-term assessment, *etc.* This was the procedure applied to all staff and it therefore also applied to the Director, IAOD. For various reasons, a performance appraisal could impinge on the independence of the Director and the staff of IAOD and it was for this reason that a different authority might ensure performance as regards substantive activities, management of IAOD’s human resources, budget, *etc.*

145. The Delegation of France, referring to the same paragraphs, recalled a question raised by Group B on the independence of the Director, IAOD. On the proposed new paragraph 43, for example, it did not understand why the IAOC would only be merely consulted whereas formerly the IAOC had had a more active role. Performance appraisals, as the Delegation of Kenya had pointed out, could raise issues. Best practice had been discussed. The Delegation wondered what constituted bad performance by an internal auditor and whether this could be, for example, performance that was not to the liking of the Director General. It said that bad performance was quite difficult to describe. Referring to proposed new paragraph 44, regarding the ability of the Director General to dismiss the Director, IAOD, the Delegation said that Group B had raised the question of endorsement by the IAOC rather than consultation with the IAOC. In its opinion, proposed paragraph 44 perhaps required some adjustment to protect the independence of the Director, IAOD.

146. The Delegation of the United Kingdom thanked the IAOC for the excellent document. It strongly supported the principles underlying the proposal and most of the proposed amendments. It also wished to share some of the concerns expressed on the change to the text on how the Director of the IAOD was to be appointed, replaced, or dismissed. It thought that the original text was better in so far as it required any changes to be endorsed by the Coordination Committee and by the IAOC. It was far more comfortable with the original language. Second, while it was happy with a six-year term for the Director, IAOD, it wished to flag that the terms should not overlap completely with that of the External Auditor. If teams changed at the same time, and on both sides of the house, so to speak, there would be too many fresh pairs of eyes. The terms of the Director, IAOD should not overlap with those of the External Auditor.

147. The Delegation of Spain thanked the IAOC for their work and for the proposed changes, which the Delegation thought would be of considerable help for improving the IAOD’s performance. As already stated by the Delegations of the United Kingdom and France, the Delegation was not entirely convinced that the proposed amendment by which the Committee would be merely consulted was an improvement to the original text. The same paragraph stated that dismissal would be only on specific grounds. The Delegation thought that “and documented” should be added after “specific” because protection be insufficient if those specific grounds were not sufficiently well documented.

148. The Chair observed that the Delegation of the United States of America had no issues on paragraph 43. He invited the IAOC member to respond to questions on paragraphs 43, 44 and 45.

149. The IAOC member said that the IAOC believed that its proposed changes reflected the fact that the IAOC was neither an advisory nor a decision-making body. However, the IAOC would have no objections to retaining the original language.

150. The Delegation of the United States of America wished to recognize the efforts of the IAOD and the IAOC in proposing some very positive revisions to the Internal Oversight Charter. Their close attention to the comments and requests of WIPO Member States over the past several years, and their efforts to incorporate these into the version that was before the PBC, were greatly appreciated. Several of the revisions were extremely useful, in particular the new provision that would increase the transparency of the oversight function through the publication of audit and evaluation reports on the WIPO website within thirty days of their issuance. The Delegation believed, as had been mentioned by other delegations, that this was a very good step in the right direction. In addition, the IAOC's increased participation in the appraisal and dismissal of the Director, IAOD was also a helpful contribution to the necessary checks and balances in the Organization's oversight function. As noted in Group B's statement, the timing of the release of the draft Internal Oversight Charter had not provided much opportunity for Member States to review and provide comments prior to the present PBC session. For the future, the Delegation strongly recommended more opportunity for such an exchange of views. At this point, the Delegation wished to recommend some revisions that it believed would help to clarify further the functions under the Internal Oversight Charter as well as some additional provisions that it believed were needed to fully achieve a level of transparency and accountability that was necessary for Member States to accomplish their own obligation of oversight of the Organization. With the permission of the Chair of the PBC and the two IAOC representatives present, the Delegation proposed walking through its recommended changes one by one, with the IAOC perhaps providing its feedback at the end. The Chair of the PBC agreed to this proposal, and the Delegation thanked all delegations in advance for their patience. In paragraph 7 of the draft proposed revised WIPO Internal Oversight Charter, the Delegation suggested an addition to clarify that investigations could proactively be initiated by the IAOD, with the paragraph to read: "*An investigation is a formal fact finding inquiry to examine allegations of or information concerning misconduct ...*" The purpose was to clarify that investigations could be initiated proactively by IAOD, and did not necessarily need to be initiated by an allegation. In Paragraph 11, the Delegation said that its proposal was the addition of the word "other": "*The Director, IOD and oversight staff shall be independent of all other WIPO programs, operations, and activities ...*". This was a small change and was simply to recognize that IAOD was a WIPO program. The Delegation noted with appreciation the new section "Conflicts of Interest", which was helpful in highlighting "conflict of interest" as an extremely important principle. However, after a close review, there still appeared to be some gaps that, for full confidence in effectiveness of the oversight function, really needed to be closed. Specifically, paragraph 20 currently provided for referring a matter to an alternative external investigative authority. The Delegation recommended that the word "*independent*" be used instead of "*alternative*" because this more effectively captured the intent that referral should be made to an independent external body. On paragraph 21, the Delegation said that this partly addressed that the nature of the IAOD's direct reporting and appraisal relationship with the Director General would create a perception of conflict of interest in those exceptionally rare instances where there was an allegation of misconduct against a Director General. However, as the Delegation had mentioned earlier, there were still some gaps that paragraph 21 did not fully address. Consequently, it wished to discuss in the next several IAOC meetings how those instances needed to be addressed differently in the Charter so that all stakeholders could feel confident that the oversight function was operating clearly and predictably. At this time, the Delegation wished to suggest that the last sentence in paragraph 21, which began "Final Investigation Reports ...", through to the end of that paragraph be moved to the section on reporting where it would be more appropriately placed. In paragraph 23, the Delegation

thought that some greater specificity here would be quite helpful and suggested the addition of “*The types of audits should include, but not be limited to, performance audits, financial audits, and compliance audits.*” In sub-paragraph 24(f), it believed that it would be useful to specify a timeframe for conducting assessments because it was currently silent. This could be done by adding a sentence at the end of 24(f): “*Independent external assessments shall be conducted at least once every five years.*” In paragraph 25, the chapeau sentence noted that IAOD was part of WIPO. The Delegation wished to strengthen this sentence to read: “*In particular, the Director of the IAOD shall assess: ...*” rather than the current language “*assist WIPO by assessing: ...*” In sub-paragraph 25(b), the Delegation proposed the addition of “WIPO produces”: “*The adequacy of organizational structures, systems, and processes to ensure that the results WIPO produces are consistent with the objectives established.*” In paragraph 26, similar to the heading for paragraph 25, the Delegation proposed: “*The Director of the IAOD shall also undertake investigations ...*”. The Delegation also proposed adding: “*The Director, IOD, may decide to proactively initiate investigations based on vulnerabilities identified.*” It thought that this would be useful to highlight that the IAOD could (and as the Delegation understood it, was already doing) initiate investigations proactively based on vulnerabilities that were identified through audits and evaluations. Regarding Section G “Reporting”, the Delegation suggested that, to make paragraph 28 clearer, after the last comma of the final phrase, the text should read: “*who shall be given the opportunity to respond within a reasonable time to be specified in the draft report.*” Currently this paragraph read: “*who shall be given the opportunity to respond within the term provided therein.*” This was a small proposed change for the sake of clarity. In paragraph 31, the Delegation suggested adding a reference to reports that it had recently learned were produced by IAOD. The reports were called management implication reports and were produced after investigations where lessons were to be learned, which were useful for management to incorporate for future implementation. It said that these reports would provide quite useful information for Member States, to be aware of and to understand their content, and to understand how IAOD’s recommendations were being implemented. In paragraph 31, therefore, the Delegation suggested adding “*as well as management implication reports resulting from investigations after audit and evaluation reports*”. The sentence would therefore read: “*The Director, IOD shall publish internal audit and evaluation reports, as well as management implication reports resulting from investigations, on the WIPO website within thirty days of their issuance. ...*” In the last part of paragraph 31, the Delegation suggested a small re-phrasing for clarity, with paragraph instead to read: “*... the Director, IOD may, at his/her discretion, withhold a report in its entirety, or redact parts of it.*” In paragraph 32, the Delegation’s suggestion was that this should include the language taken from paragraph 21, which it felt was more appropriately placed in the reporting section of the Charter. In addition, it also suggested that a copy of final investigation reports pertaining to the Deputy Directors General and Assistant Directors General should be provided to both the Chair of the GA and to the Chair of the CoCo. The reason for this was that the CoCo approved the appointment of the Senior Management Team (SMT) and the Chair of the CoCo should therefore be made aware of investigation findings concerning SMT members. Currently, the way the language was phrased meant that reports would go only to the Chair of the GA. It also suggested the same change, with the language pulled from paragraph 21, regarding final investigation reports concerning the Director General. As it had previously noted, the Delegation was very much in favor of the increased transparency that would result from making audit and evaluation reports fully accessible and believed that this initiative should be extended to final investigation reports as well. It understood that other UN organizations, including the UN Office of Internal Oversight Services (OIOS), already made final investigation reports available to Member States upon request. Member States were accountable for the effective oversight of WIPO including the appointment and performance of senior management team and the Director General of the Organization. Therefore, it was proposing a new provision to ensure that investigation findings that had an impact on the effectiveness of WIPO’s internal controls and its operational effectiveness might be disclosed in a controlled manner. This was the reason for the Delegation’s proposed new paragraph 34: “*The Director, IOD may, upon request, provide Member States with final versions of investigation reports concerning Assistant Directors General, Deputy Directors General, and the Director General. However, the Director,*

*IOD, in consultation with the legal advisor, may modify or withhold reports to ensure the confidentiality and due process rights of individuals. If authorized, individual reports may be reviewed in the office of the IOD. Further distribution of the reports by Member States is prohibited.*” It said that those delegations with a hard copy of the changes being proposed would note that the Delegation had made the same suggestion for paragraph 36. It said that if there was to be a new paragraph 34, as had just been read out by the Delegation, the addition in paragraph 36 would not be needed. The Delegation suggested the addition of a new sub-paragraph 39(b), to make the annual report more robust, as follows: *“A description of those investigative cases found to be substantiated and their disposition, such as disciplinary measures, referral to national law enforcement authorities, and other sanctions taken.”* In sub-paragraph 39(c), it proposed that the word *“reasons”* should be changed to *“explanations”*, to add clarity, as it would make sense for the description of the recommendations not accepted by the Director General to be provided in the Director General’s own words. In sub-paragraph 39(h), to ensure consistency with the other sub-paragraphs under paragraph 39, the Delegation suggested a minor change which was that the sub-paragraph should begin with *“Confirmation of the operational independence ...”*. Under the section *“Appointment, Performance Appraisal and Dismissal of the Director, IOD”*, the Delegation suggested that the word *“provided”* should be changed to *“conducted”* in paragraph 42. The purpose here was to give a more active voice. On paragraph 44, the Delegation had noted the comment of the Delegation of Spain that the Director, IAOD should only be dismissed upon specific *“and documented”* grounds; a suggestion to which the Delegation would agree. The Delegation further suggested that this paragraph should be phrased in an active voice to read: *“The Director General may dismiss the Director, IOD, only on specific grounds ...”*. The Delegation also wished to see taken into consideration the comments made by other delegations, and noted that dismissal should only be after endorsement by the IAOC and the Coordination Committee. In paragraph 46, the Delegation wished to note that it understood that this paragraph was meant to be applied to the Secretariat and not to Member States, that is, that Member States would never be precluded from bringing to the PBC proposed amendments to the Charter. It had therefore suggested a small insertion: *“by the Secretariat”*. The proposed revised paragraph would read: *“... Any proposed amendments by the Secretariat to the Charter shall be reviewed by the IAOC and the Director General ...”*. This was to clarify that the Secretariat would need to be sure to consult with the IAOC and with the Director General before making any amendments to the Charter. The Delegation concluded its intervention by thanking Member States for their patience and for their careful consideration of the Delegation’s recommended revisions which it understood to be in line with United Nations trends and with best practice. It said that it did not think that anything that it had suggested would be setting new precedents, and that it would welcome at this point the IAOC’s feedback on its suggestions, that is, as to whether the Delegation’s suggestions were reasonable and whether they would help to improve the level of transparency and accountability under the new Charter.

151. The Delegation of Germany thanked the Secretariat for document WO/PBC/22/22, which it considered to be a good starting point for improvement and for rendering procedures more transparent. It thought that it was important for the Organization to live up to a higher standard and that possible wrongdoing should be investigated in an independent and transparent manner. It aligned itself with the statement of Group B, and it could also, in principle, endorse or align itself with the proposal of the Delegation of the United States of America, which had highlighted a few very important points, and which were not limited to: the question of conflict of interest; the transferal of investigation into an independent external investigation authority; and, a more active role for the Director, IAOD as proposed in paragraph 26, including the ability to proactively initiate investigations. The Delegation noted, in particular, access to reports, which would enable Member States to live up to their oversight obligations, and the proposed changes to paragraph 31 regarding the publication of management implication reports. Regarding paragraph 32, and the reference to the role of the CoCo, as well the new paragraph 34 proposed by the Delegation of the United States of America, the Delegation of Germany wished it to be made even clearer that access by Member States to final versions of investigations reports would be provided only on a confidential basis. The Delegation endorsed

the changes made in paragraph 39 with regard to the annual report. Finally, as regards the appointment and dismissal of the Director, IAOD, it also aligned itself with the statement of Group B, and as stated more specifically by the Delegations of the United Kingdom, France and Spain, it was also not convinced that mere consultation with the IAOC would be sufficient, and that it would rather have a documented opinion of the IAOC, at least. It also endorsed the proposal by the Delegation of Spain that paragraph 44 should provide that the Director, IAOD could only be dismissed on specific “*and documented*” grounds. It thought that the Delegation of the United States of America had made a very good proposal and wished to hear the IAOC’s appraisal.

152. The IAOC member said the changes proposed by the Delegation of the United States of America were very reasonable and that they would increase the transparency of WIPO’s accountability framework. The IAOC had one minor comment, which was that it believed that the language of the new paragraph 34 proposed by the United States of America would make the proposed addition in paragraph 36 a duplication. As regards the proposed change to sub-paragraph 24(f), the International Investigation Standards currently required that a review must be undertaken every five years. The proposal was therefore a duplication of the requirements of the Standards that underpinned the Charter. Similarly, in paragraph 23, the definition of the types of audits proposed were those types of audits expected and the IAOC was not sure whether additional definition would be limiting.

153. The Chair said that there seemed to have been a very productive exchange. As many points were still in the air, and it was too early to arrive at a decision, he proposed that the IAOC should prepare a revised text that addressed all the specific concerns raised by all delegations, and with a column for what the IAOC would propose. This revised version could be used by delegations to review all revisions now before the PBC, and to enable the PBC to make a decision on any proposal for recommending a revised Charter to the GA.

154. The Delegation of Spain approved the proposals made by the Delegation of the United States of America in general. It wished to suggest an addition to paragraph 39 regarding the annual report, to quantify any damage done by irregularities detected and, just as importantly, any measures adopted or recommended to repair that damage. It suggested that a new sub-paragraph could be added under paragraph 39, which would state that the report would reflect an indication, on the basis of the detected irregularities, of the financial costs of damage done and of the measures adopted or recommended to repair or rectify the damage.

155. The Delegation of Mexico said that in proposed paragraph 26, “*risk*” could be a more appropriate word than “*vulnerabilities*”.

156. The Delegation of Kenya thanked the Delegation of the United States of America for its proposed changes. Given that the changes were quite substantial and had only been introduced that day, the Delegation needed time for reflection before deciding on whether the proposed changes should be incorporated into a revised text. In the meantime, it noted the word “*modify*” in new paragraph 34: “... *the Director, IOD, in consultation with the legal advisor, may modify ...*” a report of an investigation. The Delegation also recalled its earlier comments regarding paragraph 45 and wished to know the current procedure for the performance appraisal of the Director, IAOD. It asked whether the Director, IAOD was currently appraised by the Director General or what other procedure was currently followed.

157. The Delegation of Australia thanked the IAOC for its proposed revisions to the Charter, which it thought were, on the whole, very sensible and which would help strengthen the oversight framework. It also thanked the various Member States that had made proposals. It wished to support the comments just made regarding consideration of those proposals. It said that Member States had had a month to consider the IAOC’s revisions, fifteen minutes over lunch to consider the raft of revisions proposed by the Delegation of the United States of America, and less time for some comments just made. It was also a bit unsure about the idea



of the IAOC incorporating the proposals made by Member States as revisions to its own proposal, which would indicate that they were IAOC revisions. It requested that those Member States proposing revisions to the Charter make their proposals in writing, and that delegations be given adequate time, including time for their capitals to consider the revisions.

158. The Chair asked if the Delegation of Australia was proposing that the Secretariat facilitate capturing all proposals into one revised text for distribution, so that delegations would have time to review it, and whether this would be a better approach than asking the IAOC to do this work.

159. The Delegation of Australia agreed that this would be an efficient way to move forward and that all the proposals made should be attributed.

160. The Chair requested the Secretariat to help with a revised version, which should also show attributions, as this would facilitate review by Member States and informal consultations on any specific reservations. Text on which a delegation had reservations could be bracketed. The PBC could perhaps clean the text if there was sufficient time, and if delegations had had enough time to consult with their capitals. He asked all delegations with proposals to ensure that the Secretariat received these so that the revised text could be circulated as soon as possible.

161. The Delegation of South Africa asked for the proposals made by delegations to be referenced so that it would be clear which delegation had made which proposal.

162. The Chair said that the Secretariat would attribute the specific proposals. The Chair concluded by thanking the IAOC and IAOD for their proposals and said that he thought that Member States had given good feedback. The item was adjourned.

163. The Chair reopened the item the following day and invited the IAOC to present the re-drafted text.

164. The IAOC member presented the revised document that had been distributed in accordance with the Chair's request. He began by making a formal statement reading:

"The IAOC believed that it was important for the PBC to approve the proposed revisions to the Oversight Charter. It was a very important step in the life of the Organization. The IAOC could not emphasize enough how much it encouraged Member States to find consensus because without consensus important changes could not go ahead, such as the publication of audit and evaluation reports; a change that the IAOC strongly believed was viewed by all as a great step forward."

The IAOC member continued by stating that he had spent the best part of the morning in discussions with those Member States that had proposed changes in order to clarify views, understand rationales and to provide the IAOC's feedback. As Member States had already introduced their proposed changes in the plenary, he would only present any proposed changes by Member States on which the IAOC had comments. In other words, he would not present the changes to which the IAOC agreed. He said that his presentation would be based only on the last document that had been distributed and not on any other document. On paragraph 26, on page 11, the IAOC member said that the Delegation of the United States of America had suggested an addition: "*The Director, IOD may decide to proactively initiate investigations based on vulnerabilities identified.*" The Delegation of Mexico had suggested replacing the word "vulnerabilities" by "risks". The IAOC supported the suggestion of the Delegation of Mexico. On proposed new paragraph 34, the Delegation of Kenya had proposed the word "redact" instead of "modify". The IAOC supported this proposal. The sentence proposed by the Delegation of the United States of America read: "*However, the Director, IOD, in consultation with the legal advisor, ...*". The IAOC suggested that "in" should be changed to "after" i.e., "*However, the Director, IOD, after consultation with the legal advisor, ...*". The IAOC's rationale was that "*in consultation with*" suggested a joint decision. As the legal advisor was not

independent of Management, and the process involved senior management, the IAOC felt that it would not be appropriate to involve a staff member who was not independent in such cases. The change emphasized that the decision lay with the Director IOD and that he would only consult with the legal advisor. On paragraph 36, on page 15, the Delegation of the United States of America had suggested adding a new sentence: *"In cases where investigation report findings and/or recommendations relate to the Director General, the IAOC shall, at the earliest opportunity, report these to the Member States."* The IAOC believed that, if Member States were to agree on the new paragraph 34, which provided more information than required in paragraph 36, the proposed change to paragraph 36 would not be needed, and the IAOC would suggest withdrawal of the proposed addition. On paragraph 39, on page 16, concerning the annual report of the Director, IOD, the Delegation of Spain had proposed a new sub-paragraph: *"An indication of the financial impact of any irregularities and of remedial actions taken."* The IAOC believed that these issues were already properly addressed in the existing text in paragraph 39(b): *"A description of those investigative cases to be substantiated ..."*. The IAOC understood that the description would include financial impacts, if any. However, to emphasize the financial aspect, the IAOC suggested additional language to the sub-paragraph so that it read: *"A description, including the financial impacts, if any, of those ..."*. The IAOC believed that the financial impact would be covered by this addition, as well as being covered (in terms of remedies and recommendations) by the following sub-paragraphs: sub-paragraph 39(b) of the IAOC's proposal *"A description of all high priority internal oversight recommendations made by the Director, IOD during the reporting period"*; sub-paragraph 39(c) of the IAOC's proposal *"A description of all recommendations which were not accepted by the Director General, together with his/her reasons for not doing so."*; and sub-paragraph 39(d) of the IAOC's proposal *"An identification of high priority recommendations in previous reports on which corrective action has not been completed."* The IAOC believed that this would give proper and appropriate information to Member States. In addition, the IAOC member wished to point out that the proposed addition to paragraph 31 (for the publication of management implication reports) was a significant change and one that would have a direct impact along the lines of the suggestion of the Delegation of Spain. The IAOC member clarified that two types of reports could be produced for investigations: one was the final investigation report, which was a fact-finding report that focused on the wrong-doings of a certain individual or individuals; the second was a management implication report, which provided lessons learned, and identified control weaknesses that had allowed for the possibility of the wrong-doing. The latter report would make reference to the investigation, provide a description of the issues, identify the control weaknesses that made the wrong-doing possible, and would also make recommendations. The IAOC believed that publication of management implications reports was also an important step for Member States, and one that would enable them to understand what had happened and any action to be taken by the Secretariat to rectify a situation. On paragraphs 43 and 44, page 19, the IAOC member said that Member States had proposed that, instead of merely consulting the IAOC, the IAOC should instead endorse the appointment and the dismissal of the Director, IOD. The IAOC had no objections and supported this proposal, as long as there was a common understanding that the IAOC was not a decision-making body. The IAOC was an advisory body. If there was a common understanding on this point, the IAOC could support this change. On the proposal by the Delegation of the United Kingdom to include language concerning the staggering of the terms of the External Auditor and of the Director, IOD, the IAOC member read out the proposed new language as follows: *"Steps should be taken, where possible to ensure that the start of the terms of the Director, IOD, should not be the same as that of a new External Auditor."* The IAOC member said that the underlying concern here was that a concurrent departure or change these oversight mechanisms may negatively impact on the quality of oversight work at WIPO. This was a valid concern. The IAOC had, however, two comments: first, the IAOC believed that the actual risk of this happening was low because of the significant level of institutional memory that would stay within WIPO even when the Director, IOD, left. The Heads of the Audit, Evaluation and Investigation Sections would all remain. Consequently, the IAOC did not think that the departure of the Director of the Division should impact significantly on the quality of the oversight mechanisms. Second, the IAOC believed that there was not much room for maneuver. If a Director, IOD left, Member States had to find a new one for six

years, and if the Director decided to leave at the time when a new External Auditor was beginning its term, there was no way to avoid an overlap of terms. Finally, it was also important to note that, at the moment, there was a *de facto* staggering of terms because the current Director had started his term in 2012 for a period of five years, and the External Auditor had started his term in 2012 for a period of six years. The IAOC member concluded by stating that the IAOC had no further comments and that he would be attending the PBC for the entire week, and would be at Member States' disposal should they wish to discuss with him any aspects of the changes proposed.

165. The Chair said that certain delegations had requested more time for consultations and that he would, therefore, not be proposing PBC discussions at this time with a view to a decision-making. He said that the Delegation of Australia had requested the opportunity to ask questions of proponents in relation to their proposals to help Member States with consideration of the proposals, to which he had agreed.

166. The Delegation of Kenya requested circulation of a soft copy of the document that had been distributed so that this could be forwarded to Group members and to capitals. It also wished to ask for an explanation of the current practice regarding the performance appraisal of the Director, IAOD.

167. In response, the Director, IAOD said that the IAOD staff members were WIPO staff members and were evaluated in the same way as all WIPO staff. WIPO had a performance management and staff development system whereby certain criteria to be used for evaluation were identified at the beginning of each year. Objectives were defined for the staff member and, at the end of the year, or at any rate by March 31 of the following year, the supervisor evaluated the extent to which the various objectives had been met and also gave an overall appraisal. The appraisal rating could be excellent, that the objectives had been achieved, that some improvement was needed, or that performance fell short of expectations. This was the system in place for all staff members. In principle, each staff member had two supervisors: one who was their direct supervisor and another who was above their direct supervisor, and who supervised a division as a whole, and who gave the final appraisal. Ultimately, of course, it was the Director General who was at the top of the pyramid and who, in the case of the Director, IAOD, determined whether or not the objectives, which had been decided upon together, had been achieved. The objectives were no secret and were part of IAOD's work plan. That work plan was discussed with Member States and became part of the IAOD's work program. Everyone knew what the objectives were and of course performance could be looked at in the light of those objectives. This was certainly how the Director, IAOD would be evaluated. The change that would result from the proposed revision to the Charter was that the IAOC, which was an external body, could express a view as to the substance of work. The IAOC would not carry out the evaluation but it would provide information and therefore contribute to an evaluation as to the substance of the work done by IAOD.

168. The Delegation of Australia thanked Member States for the proposed revisions, which it would be studying in detail over the next few days. It noted the proposal of the Delegation of the United States of America in relation to access to investigation reports. It wished to ask that Delegation whether it had considered the alignment of its proposals with practices of other UN specialized agencies and consistency with general principles of confidentiality in administrative investigations. It invited that Delegation to provide this information in order to allow a full consideration of its proposal. It was also interested to know whether there was a concrete problem the Delegation was aware of that its proposal was intending to address.

169. The Chair said that, in order to be constructive, the Delegation of the United States of America could come back to this topic later if did not have a specific response at this stage.

170. The Delegation of the United States of America thanked the Chair and the Delegation of Australia for the question, which it said had a few different elements. The Delegation

understood that the question included as to whether its proposal was considered to be in alignment with other specialized UN agencies, in terms of disclosure policies of other UN agencies. Another component to the question was in terms of general principles of confidentiality. The Delegation apologized that it not caught the entire extent of the question and asked for it to be repeated.

171. The Delegation of Australia said that it had asked about the consistency of the proposal with the general principles of confidentiality in administrative investigations.

172. The Delegation of the United States of America said that it would come back with a more detailed response the following day. As a preliminary response, it said that other disclosure policies had been considered, as it had noted during its intervention when it had introduced its proposals. The Delegation said that it would have to look more closely to see whether those agencies that had been considered did have the status of a specialized UN agency. The Delegation would probably also look to the expert advice of the IAOD and the IAOC as they were likely to be more familiar with the extent of existing policies. However, the Delegation had looked at several other policies and, as it had also noted the previous day, it did not believe that it was proposing anything that was precedent-setting. It understood that its proposal was something basically in line with a trend towards transparency and accountability within the UN System. As with a move forward to greater transparency for audit and evaluation reports, the Delegation understood that, at the same time, those agencies that had adopted the approach under consideration, that is, that they had also included investigation reports in the model. The proposal was therefore what the Delegation understood to be a trend toward a best practice at this point. The second part of the question, in terms of the consistency of the proposal with general principles of confidentiality for administrative investigators, was a rather complex legal question and the Delegation said that it would need to come back on this.

173. The Chair said that his proposal was to invite Member States to hold informal consultations and consult with their capitals if need be. The IAOC was available for questions and consultations. He was sure that the Director, IAOD would also be available. He encouraged Member States to discuss among themselves, especially directly with proponents for questions regarding the objectives behind any changes. He wished to encourage Member States to review the proposals, consult with capitals and to engage in constructive conversations. He would see if it would be possible to come back to this agenda item at this session. The item was adjourned.

174. The item re-opened on Day 4 of the session. The Chair recalled that the IAOC had presented its proposals, which had been followed by additional proposals from several delegations. The PBC had agreed that a document should be prepared showing all proposed amendments with attributions, as well as the IAOC's observations on the proposed amendments. This document had been presented in plenary. Some delegations had asked for time for consultations and bilateral discussions had been encouraged. The Chair hoped that delegations had had sufficient time to consult their capitals. He was aware that, at this point, it might not be possible to clean up all elements. The aim now was to obtain any feedback from delegations on at least some paragraphs. This way, the document could be cleaned up as much as possible, which would leave pending only those elements of the draft on which some delegations might still have problems. He understood that it might be necessary to come back to this item again. The Chair said that he would now go through the document by paragraph. The Chair said that the first amendment was in paragraph 7, which had been proposed by the Delegation of the United States of America and which was supported by the IAOC. He said that he saw no objections to this change. The next amendment was in paragraph 11, which was another proposal by the Delegation of the United States of America and which was also supported by the IAOC. He asked if any delegations had reservations.

175. The Delegation of Kenya, speaking on behalf of the African Group, said that not all members of the Group had been able to provide comments. The Delegation did not think that

the African Group had any specific comments on this paragraph, but one member might have comments on the addition of the word “other”. The Delegation therefore needed more time.

176. The Chair thanked the Delegation of Kenya and said that this was exactly in line with the purpose of this exercise, i.e., to hold back elements that were still under consultation and return to them later. Member States had no reservations on paragraph 7 but they would come back to paragraph 11. On paragraphs 20, 21 and 23, and sub-paragraph 24(f), the Chair said that the proposed amendments had the IAOC’s support. He saw no objections from the floor. He asked if he was going too fast. He said that everyone needed to feel very comfortable with this exercise, which was a strange one in a plenary like this, but which seemed to be going quite well. The Chair saw no objections on sub-paragraph 25(b), as well as on paragraph 26, which had been proposed by the Delegation of the United States of America, with a subsequent amendment proposed by the Delegation of Mexico, that had been supported by the IAOC. He also saw no objections on paragraph 28.

177. On paragraph 31, the Delegation of Australia said that it was still considering this paragraph but that, as a preliminary comment, it believed that the discretion of the Director, IAOD to take action to protect security, safety or privacy should be available in all circumstances and not just in exceptional circumstances.

178. The Chair recalled that delegations had been encouraged not only to discuss bilaterally but also with the IAOC and the Director, IAOD.

179. The IAOC member clarified the IAOC’s understanding that paragraph 31 referred only to those exceptional cases when a report would need to be redacted.

180. The Delegation of Australia thanked the IAOC member for the clarification. However, it said that the wording was still not clear enough to the Delegation, which had interpreted it in the way that it had just explained. The Delegation therefore needed to consider this further.

181. The Chair recalled that Member States had reservations on paragraphs 11 and 31. On the latter, he encouraged further discussion between the Delegation of Australia, the IAOC, and any other interested delegations. The Chair saw no objections on paragraph 32. He observed that the proposed amendment to paragraph 33 related to the new paragraph 34. The Delegations of Kenya and Germany had proposed amendments to new paragraph 34, which were supported by the IAOC. The IAOC had also subsequently proposed an additional amendment to this paragraph, which was the introduction of the word “after”.

182. The Delegation of Australia said that it was still considering paragraph 34 and therefore wished to reserve its position.

183. The Delegation of the United States of America recalled the questions that had been raised earlier on proposed new paragraph 34 and wished to take this opportunity to respond to those questions fully. It wanted to circle back regarding whether the new paragraph 34 proposal for making final investigations accessible in a controlled and confidential manner was consistent with principles of confidentiality for administrative investigations. The Director, IAOD had kindly provided some additional background on the principles and the uniform guidelines that UN investigators followed in conducting investigations, specifically those of the Conference of International Investigators’ Uniform Guidelines for Investigations. The Delegation understood that WIPO investigations were also carried out in accordance with these guidelines. This was just one set of principles that included principles on confidentiality that the Director, IAOD and his staff were obligated to abide by. In addition, the WIPO Investigation Policy provided an additional framework for respecting confidentiality in investigation activities, including reporting. For example, the Investigation Policy noted that “*confidentiality must be maintained with respect to all investigative matters by the Director, IAOD, designated investigators and all others involved. IAOD shall keep confidential the identity of the source of the initial report of possible misconduct and disclose it on a need to know basis only where required by the legitimate needs*

*of the investigation and/or any subsequent proceedings. IAOD will protect from unauthorized disclosure the information gathered in the course of its investigative activities".* The Delegation thanked the Director, IAOD for providing this detailed insight into the procedures that he and other professional investigators followed in fulfilling their investigation functions. Member States were ultimately responsible for the effective oversight of WIPO. The Delegation took this responsibility seriously and believed that other PBC Members, as well as the WIPO membership more broadly, shared its commitment to making the Organization more accountable to its Members. When there were significant investigations involving the leaders of an Organization, Member States had a right to know the underlying facts and findings as well as recommendation for action. It believed that this new provision would ensure that investigation findings having an impact on the effectiveness of WIPO's internal controls and operational effectiveness would be disclosed while explicitly reinforcing the consideration of confidentiality and due process rights. The Delegation believed that the new paragraph 34 language that it had proposed struck an appropriate balance between respecting the need for confidentiality and due process, and the need for transparency and accountability in WIPO's activities and decision-making, particularly at leadership level of the Organization. In fact, the important principle of confidentiality had been even further strengthened with additional suggestion from Germany "under condition of confidentiality", as well as the clarification of "redact", and the Delegation wholeheartedly supported moving forward with the revised paragraph. The important thing that PBC members should consider was whether this practice would enhance transparency and accountability, thereby enhancing the ability of Member States to ensure the good governance of the Organization. The Delegation was encouraged to hear that the IAOC, the expert advisory body charged with assisting Member States with oversight of WIPO's operations, supported the improvements suggested. The Delegation thanked the Chair of the PBC for allowing it to come back with additional comments and it hoped that it would be possible to proceed on paragraph 34.

184. The Chair reminded delegations that they only had until the following afternoon to come up with an outcome regarding this agenda item. He encouraged all to engage in consultations to see where it would be possible to clarify points. Regarding paragraph 34, he wished to encourage especially the Delegations of the United States of America and Australia to engage in constructive consultations, and not to leave out the Delegations of Germany and Kenya, which had specific elements associated with this proposal, and of course the IAOC, which was the proponent of the proposed revisions to the Charter as a whole, and IAOD which would be touched directly by any decision on this paragraph.

185. The Delegation of Hungary supported the changes to the Charter in the original proposal contained in document WO/PBC/22/22 as well as all the proposals made by various Member States. However, it had some concerns as regards the newly introduced paragraph 34. It had not had time to evaluate and analyze carefully the consequences and would need more detailed discussions at the next PBC session regarding the strong safeguards required to avoid that sensitive reports could be further distributed and put into inappropriate hands.

186. The Chair said that he had concerns on the last element of the statement of the Delegation of Hungary regarding the additional time needed to come up with a decision. A process of consultations had begun on Tuesday with Member States, with capitals and among Member States. He proposed that what could be done now was to clean up the text as much as possible knowing that Member States would need to come back on certain points. He asked the Delegation of Hungary whether he was correct in his understanding that it had said that it would not have time to come back on these points by the following day and that they should be left for the next PBC session.

187. The Delegation of Hungary said that it thought that practically everything proposed could be adopted. It was only the proposed new paragraph 34 that was quite controversial. This was also not the first time that this had been on the PBC agenda. The Delegation needed more



detailed discussion on the safeguards. The proposals had been made at a very late stage. The Delegation thought that there had been insufficient time, and did not think that a few days were enough, for a thorough discussion about what kind of safeguards were needed to in the paragraph or other parts of the text to balance out the question. The Delegation had proposed that certain elements could also be discussed at the next PBC session.

188. The Chair proposed that delegations should continue with the exercise to see if there were many other elements on which delegations had questions, to arrive at an appropriate decision at the end of discussions. There would be informal consultations on possible outcomes, such as having a partial approval or just keeping the revisions as an agenda item for the next PBC session, beginning with the draft document that was the outcome of discussions at the present PBC session.

189. The Delegation of the Republic of Korea fully supported the proposal made by the Delegation of the United States of America, which was supported by the IAOC. It thought that if there was no consensus on this particular paragraph or a particular wording, it could be left in brackets until the GA, and discussed then. It thought that this paragraph was critical for enhanced transparency of the Organization.

190. The Chair of the PBC said that, as previously mentioned, he would informally explore possibilities on how to close this item properly. The Delegation of the Republic of Korea had come up with a new suggestion, which was to leave it open. Another suggestion had been to come back to the issue at the next PBC session. The Chair proposed that the clean-up exercise be completed and then, if it was logical, a draft version could be prepared with brackets to make it simpler for everyone engaging in consultations. The PBC could then decide on the best way to proceed. This had to be a collective decision. The new paragraph was a very controversial element of the draft. He suggested that it be left open and he invited continuation of discussions on the pending elements of the current draft document. He observed that paragraph 36 was linked to paragraph 34, and questioned whether it would be possible to settle paragraph 36 right now because it was dependent on a decision regarding another paragraph. They were interlinked. Therefore, he was not going to open the floor to comments on paragraph 36. On paragraph 39, the Chair said that the Delegations of the United States of America and Spain had proposed additions by to the original description of what should be included in IAOD's annual report. One proposal was the new sub-paragraph (b), which was supported by the IAOC. The IAOC had proposed an additional amendment, which was to include: "... *including the financial impacts, if any, ...*" The IAOC's addition was related to a proposed addition by the Delegation of Spain, and would result in the deletion of that proposal. The Chair saw no objections. He said that proposed amendments had also been made to original sub-paragraphs 39(c) and 29(h) and that, again, he saw no objections. On paragraph 42, the proposed amendment was to change "*provided*" to "*conducted*", which the IAOC supported. The Chair saw no objections. On paragraph 43, the IAOC had made a comment regarding its understanding of "*endorsement*" but the Chair said that it was not clear whether the IAOC supported this change, which had been proposed by some Group B delegations.

191. The IAOC member said that the IAOC supported "*endorsement*". However, the IAOC's understanding was that "endorsement" did not imply decision-making power for the IAOC, which was an advisory body. The IAOC member also clarified the comment on the staggering of the terms of the Director, IAOD and the External Auditor. The point made by the IAOC was that staggering of terms was not really something that could be controlled and enforced, and therefore the IAOC did not see how it would work in practice. He reiterated that the IAOC had, however, no objection to the proposed addition.

192. The Delegation of the United Kingdom thanked the IAOC member for its explanations and asked for further information on whether the IAOC's position was that it could endorse or could not endorse a decision. The IAOC member replied that the IAOC's position was that it could

endorse a decision. The Delegation of the United Kingdom said that it was therefore satisfied with the IAOC's understanding of the paragraph. The Chair of the PBC asked if there was a general understanding on this point, having now heard that the IAOC was comfortable with the amendments.

193. The Delegation of the Hungary requested a clarification as to whether the Director, IAOD could still be appointed in the absence of endorsement by the IAOC. If not, then endorsement could be understood as a decision-making power. The Delegation wished to clarify whether the IAOC understood endorsement as advice or an opinion, which could be favorable or unfavorable.

194. The Chair asked the IAOC member whether the IAOC understood that it would have a power of veto. The IAOC member said that the IAOC could express an opinion but that the Committee was not responsible for the hiring of the Director, IAOD. The IAOC would express its opinion as to whether or not the IAOC would agree to a proposed appointment. However, it would not be involved in any other aspects of the selection process, such as short-listing of candidates. The Chair asked if everyone was comfortable with the current drafting as presented. He saw no objections and said that the PBC could come back to this paragraph if necessary. Turning to paragraph 44, the Chair said that changes had been proposed by the Delegation of the United States of America with an additional element by the Delegation of Spain, to read: "The Director General may dismiss the Director, IOD only on specific and documented grounds and after endorsement by the IAOC and the Coordination Committee." He saw no objections. On paragraph 46, the Chair said that this was a clarification introduced by the Delegation of the United States of America that had not been viewed as controversial during discussions. The Chair listed the paragraphs on which delegations had reservations: paragraph 11; paragraph 34 and its related issues, which also related to paragraph 36. These paragraphs would be kept in brackets pending the results of discussions. If there was any progress between today and tomorrow, this would be tracked. Informal consultations would begin on how to proceed with this item at this session of the PBC. Proposals had been made by the Delegations of Hungary and the Republic of Korea regarding next steps.

195. The Delegation of Australia noted that it had indicated that it was still considering paragraph 31, which the Chair of the PBC had noted. The Chair proposed that a revised paper be issued showing clearly those issues still under consideration and requiring further consultations.

196. The Delegation of the Republic of Korea wished to clarify that it had not made any proposals regarding paragraph 34. Its position was that it supported the proposal. It would consult with the IAOC member regarding its position and did not wish to propose anything specific yet.

197. The Chair said that he understood that the Delegation of the Republic of Korea was proposing a continuation of this discussion and that it be taken up at the GA. The Chair said that he had only been referring to the comments of the Delegation of the Republic of Korea on paragraph 34, which had been addressed in general by other delegations. If the Delegation had no proposal regarding this paragraph, he asked what should be the procedure going forward. He asked whether the Delegation was proposing to take this to the GA as an agenda item or to take this to the next PBC session. He said that he was about to start consultations so that the PBC could take a decision. The Delegation of the Republic of Korea clarified that it hoped that it would have the possibility to express its position during the present plenary, perhaps the following day. The Chair of the PBC said that he intended to come back to this item for a collective decision on the next steps forward. The agenda item was pending. A cleaned-up version of the revisions would be circulated, which reflected what had already been decided.

198. The agenda item re-opened on Day 5 of the session. The Chair asked delegations whether they had had sufficient time for consultations, or whether more time was needed before



coming back to this item in the afternoon with a view to a decision or a recommendation for the GA. He reminded delegations of the progress that had been made the previous day in cleaning up the document. An updated version had been circulated. The issues pending were on paragraphs 11, 31, 34 and 36. He asked the Delegation of Kenya whether it had had consultations, and whether progress had been made, regarding the introduction of the word "other" in paragraph 11.

199. The Delegation of Kenya said that it had not received feedback and was not in a position to respond on paragraph 11. The Chair of the PBC said that this was not a problem and that a decision would not be taken until everybody was comfortable. The Chair asked the Delegation of Australia and of the United States of America if they had any comments regarding paragraph 11. He also asked if there were any adjustments to be proposed to paragraph 31. The Delegation of Australia had expressed a reservation and was consulting on this paragraph.

200. The Delegation of Australia said that, as it had outlined yesterday, it would be comfortable with the proposed paragraph 31 if the words "*in exceptional circumstances*" were deleted. The reason for this was that, for the Delegation, privacy was something that needed to be protected in all circumstances, not just in exceptional circumstances. The wording would therefore be: "*if required*" so that it was still be very clear the Director, IAOD, should withhold this information only when it was required for purposes of security, safety, or privacy.

201. The Chair thought that this was a constructive adjustment, on which delegations needed to think and consult. He did not expect a decision right now. The Delegation of Australia had made a proposal to move forward on this paragraph, which the PBC would come back to in the afternoon, as he had suggested, when a decision could be taken on how to proceed and what next steps would be taken on this item. He asked if any delegations wished to take the floor on paragraphs 34 and 36, which were interlinked, and if there had been any progress following consultations.

202. The Delegation of the United States of America appreciated that there had been a very good exchange of information and views on the whole range of proposals that the Delegation had made to improve the Charter, as well as the proposals made by other Member States. The Delegation thought that there had really been an increase in the awareness and understanding of the oversight function of the Organization, which was a positive outcome of this engagement. Although the Delegation understood that all of its carefully crafted recommendations had been endorsed by the IAOC, and that there seemed to be some strong interest in the concept that the Delegation had proposed under paragraph 34 to increase transparency, there was a PBC Member that retained some discomfort with the proposal. The Delegation therefore wished to request the IAOC to set aside time during its next several meetings in the run up to the next PBC session to discuss this issue with interested Member States, as well as the issue that the Delegation had referred to earlier in the week with respect to how to best eliminate the conflict of interest problems that it believed continue to exist in the Charter. The Delegation strongly believed that all Members would benefit from a further exploration and sharing of views on these lingering issues that remained open within this version of the Charter, and it very much looked forward to discussing a way forward for a comprehensive approach for robust disclosure of all oversight reports. For the GA, the Delegation said that it could support moving forward with the revisions that all Members did agree upon at this point so that an improved Charter could immediately be put into action. The Delegation hoped that it had been clear.

203. The Chair said that reactions from all delegations to this proposal were needed because some decisions would be required in the afternoon regarding the document. The Chair asked the Delegation of the United States of America what the implications would be for paragraph 36.

204. The Delegation of the United States of America said that it was still having some bilateral discussions on how to still capture the idea intended by the additional language proposed by the

Delegation under paragraph 36. The Delegation was not quite ready to come back on this yet but it should have something soon, if this would be acceptable.

205. The Chair said that this was acceptable and encouraged informal discussions. He asked the Delegation of the United States of America to involve in those discussions the Delegation of Hungary, which still thought that the PBC might consider the Charter at a later date.

206. The Delegation of Hungary wished to thank the Delegation of the United States of America for their understanding on paragraph 34. This was the Delegation's only concern and it was completely ready to move ahead with all of the revisions to the Charter except for that paragraph. There had been very fruitful discussions the previous day. The Delegation thought that it could agree, and the Delegation of the United States of America had shared its understanding. The Delegation of Hungary further thought that it would be possible to continue discussions on this particular paragraph at the next PBC session. For the other proposed revisions, the Delegation was happy to go ahead and adopt a revised Oversight Charter.

207. The Chair recalled that the PBC would also need to go back to a specific proposal made by the African Group regarding paragraph 11.

208. The Delegation of Australia also wished to thank the Delegation of the United States of America. It had been involved in the discussions and it wished to indicate that it was seriously considering the proposal. It would continue to engage on this issue with the Delegation of the United States of America and other Members.

209. The Chair said that paragraphs 11 and 36 were therefore pending. The Chair proposed that the PBC return to these in the afternoon to see if it could arrive at an agreement on the proposal for a revised Charter. He understood that the Delegation of the United States of America had proposed engaging with the IAOC to deal with this issue, and that this could be part of the PBC's decision if the PBC thought it appropriate. Alternatively, the PBC could just recommend the approval of the Charter if it was able to sort out the two remaining paragraphs, namely paragraphs 11 and 36.

210. The Delegation of the Republic of Korea wished to thank the IAOC for its open-minded and professional approach to the proposed revisions to the Charter at this session. It also wished to thank the Delegation of the United States of America for submitting concrete and balanced proposals on this item. The Delegation believed that the framework that was included in the provision, especially new paragraph 34, was needed. However, it recognized that some provisions needed more deliberate or detailed discussions. Taking this into account, the Delegation was flexible as to how to discuss those specific provisions in the future.

211. The Chair thanked the Delegation of the Republic of Korea for its flexibility. He thought that approval of the Charter was possible at this session. He encouraged delegations to consult as appropriate so that the PBC could come back to this item and hopefully have a decision during the present session, in order to recommend adoption of a revised Charter to the GA. It would be an achievement to have decisions on nearly all the PBC's agenda items. The Chair proposed that the PBC come back to the item in the afternoon, to give delegations enough time to consult before consideration was given as to whether the PBC could approve the revised Charter and make a recommendation to the GA. The item was adjourned.

212. The Chair re-opened the item later that day. He asked delegations whether they had made progress in their consultations, specifically regarding paragraph 36.

213. The Delegation of Australia requested some additional time for consultations with the Delegation of the United States of America on wording.

214. The Chair asked the Delegation of Kenya whether there had been any progress as regards the word "other" in paragraph 11.

215. The Delegation of Australia, having finished consultations with the Delegation of the United States of America, said that language acceptable to all parties had been found for paragraph 36 and that this language was being circulated for consideration by the broader PBC membership.

216. Following a short break, the Chair said that he had consulted with various delegations and understood that the proposed language for paragraph 36, which had been circulated to the PBC members, was a proposal by the Delegations of Australia, Hungary and the United States of America. He read out the new language as follows: *“In cases where investigation report findings and/or recommendations apply to the Director General, the IAOC shall, at the earliest opportunity, report to Member States that such findings and/or recommendations have been made.”* He said that did not see any requests from the floor. The Chair added that there was an agreement to the adjustment proposed earlier in the morning regarding deletion in paragraph 31 of the expression *“in exceptional cases”*. The second sentence of that paragraph would therefore begin: *“If required to protect security, safety or privacy, ...”*. He said that those delegations that had expressed a concern on this paragraph were ready to approve the revision. Regarding paragraphs 33 and 34, the Chair said that the Delegations of Australia, Hungary and the United States of America had agreed to go back to the paragraphs as proposed by the IAOC. He said that, as one delegation had not been able to agree to this, a suggestion had been made that the paragraphs of the current Internal Oversight Charter should continue to apply. He understood that the relevant provisions were paragraphs 19 and 21 of the current Internal Oversight Charter. The only other pending issue was paragraph 11. The Chair clarified that it would not be necessary to introduce the word “other” into that paragraph. The Chair proposed that a decision paragraph for this item be circulated, which he read out as follows: *“The Program and Budget Committee (a) recommended to the WIPO General Assembly to approve the proposed revisions to the WIPO Internal Oversight Charter as amended during the 22<sup>nd</sup> session of the PBC and attached to this document.”* The Chair explained that the draft agreed upon, showing the amendments made by the PBC, would be attached to the decisions document. The attachment would have a table with two columns showing the proposed revisions by the IAOC and the subsequent amendments by the PBC. Regarding paragraphs 33 and 34, these would disappear from the version agreed upon by the PBC and be replaced by paragraphs 19 and 21 from the current Internal Oversight Charter. He added that the IAOC had confirmed that this would work well because the language represented the proposed changes to those paragraphs. The Chair said that the document attached to the “List of Decisions” document would clearly show all the changes that had been approved by the PBC. He added that the decision would include *“(ii) take note that the relevant sections of the Financial Regulations and Rules will be amended accordingly”*. This would be followed by *“(b) Noting that there was no consensus for revisions to paragraphs 33 and 34, requested interested Member States to continue consultations; and (c) Requested the Independent Advisory Oversight Committee (IAOC) to continue to provide its expert advice to Member States to aid in their consultations on these paragraphs.”* The decision would be exactly in line with what the Delegation of the Republic of Korea wished, because paragraphs 33 and 34 would correspond to paragraphs 19 and 21 of the current Charter, and Member States would continue to engage in discussions, as agreed to by the Delegations of Hungary, the United States of America and Australia. The Chair requested the Secretariat to circulate the draft decision.

217. The Delegation of the United States of America thanked the Chair for what it said sounded to be a reasonable approach. The Delegation asked if it would be possible to have the attachment to the decision circulated. It thought that delegations may have lost track during discussions as to which changes would be shown.

218. The Chair thought that the attachment could be prepared very easily by the IAOC and the Secretariat, and that it would be better to circulate the attachment with the decision, and asked for this to be distributed as soon as possible. He thanked all delegations for the very good

discussions under this agenda item, and the substantial progress that had been made. He said that if the PBC could arrive at a decision, this would be a milestone.

219. Following circulation of the draft decision and the attachment, the Chair read out the draft decision paragraph. The Delegation of the United States of America thought that the language in sub-paragraph (c) should read "*Member States*" instead of "*members*". It also wished to note for the record what looked like an omission in the last sentence of paragraph 31 in the matrix in the attachment. The proposal that had been made was "... *the Director, IOD may, at his/her discretion, redact or withhold a report in its entirety or redact parts of it.*" The Delegation thought that this change may have been missed in the transcription process, and that there had been no objection to the proposed change during the course of the week.

220. The Chair noted that the attachment document would need to be amended in line with the proposal of the Delegation of the United States of America. He saw no objections and read out the proposed decision paragraph, which was adopted.

221. The Program and Budget Committee:

(a) Recommended to the WIPO General Assembly to:

(i) approve the proposed revisions to the WIPO Internal Oversight Charter as amended during the 22nd session of the PBC and attached to this document;

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

(b) Noting that there was no consensus for revisions to paragraphs 33 and 34, requested interested Member States to continue consultations; and

(c) Requested the Independent Advisory Oversight Committee (IAOC) to continue to provide its expert advice to Member States to aid in their consultations on these paragraphs.

## **ITEM 8      PROGRESS REPORT ON THE IMPLEMENTATION OF THE JOINT INSPECTION UNIT (JIU) RECOMMENDATIONS**

222. Discussions were based on document WO/PBC/22/23.

223. The Chair gave the floor to the Secretariat to introduce the Progress Report on the Implementation of the Joint Inspection Unit (JIU) Recommendations for the Review of WIPO Legislative Bodies.

224. The Secretariat presented the document under discussion as an update since the last report on recommendations related to the legislative bodies presented the previous year. The Secretariat highlighted that the first report was a much more exhaustive list, covering the period from 2010 to date, whereas the current report represented incremental reporting. It was also highlighted that the report included those recommendations from the JIU MAR, which were addressed to the legislative bodies. The Secretariat noted that, since the last report, 12 recommendations had been accepted and implemented, two had been accepted and were under implementation, and 10 were under consideration.

225. The Delegation of El Salvador thanked the Secretariat for the information provided, which it considered very consistent and concise. The Delegation wished to know whether there was a deadline for the 10 recommendations which were under consideration. In its view, the deadline

should be the next meeting of the PBC, when delegations should receive a report on the said 10 recommendations. The Delegation requested confirmation of this from the Secretariat.

226. The Secretariat indicated that the document was a dynamic, living document, which would reflect the updated status of recommendations every year. The Secretariat noted that it could not provide precise dates as to when a recommendation under consideration would be implemented, but highlighted that the annual updates would show when a recommendation was under consideration, whether it was accepted or not accepted, and if it was accepted, at what stage of implementation it was. If delegations were looking for specific updates, the Secretariat indicated that these could be found on the JIU's web-based tracking system, to which all delegations had access. Any specific recommendation, which a delegation might like to follow, could be found there. If the recommendation was a system-wide one, then all the responses from other UN entities who would have been given the same recommendations could be found there as well.

227. The Delegation of Canada referred to the report on strategic planning and requested clarification regarding the response to recommendation 5 in that report (JIU/Rep/2012/12) regarding the relationship between the Medium-Term Strategic Plan and the Organization's broader six-year planning cycle, since in the reply to the recommendation the Secretariat had indicated that the duration of its planning cycle was currently six years. The recommendation was for across-UN harmonization of planning cycles. The Delegation wondered, therefore, why WIPO had indicated that the duration of this planning cycle was "*currently six years*", because it looked to the Delegation that there was no contradiction between the two elements. The Delegation's second question regarded the Ethics in the UN System report (JIU/REP/2010/3). Recommendation 8 in that report called for the executive heads of legislative bodies to "*ensure that the head of the ethics office has informal access to the legislative bodies*". The Delegation wondered what the considerations and the obstacles were in granting the head of the ethics office such informal access.

228. The Delegation of Japan, speaking on behalf of Group B, welcomed the progress report on the implementation of the JIU recommendations, which helped understanding of the progress of the efforts made by the Secretariat to that effect. The Delegation indicated that, in future reports, it would welcome the inclusion of recommendations addressed to the Secretariat in addition to the recommendations to the legislative bodies, which were included in the Annex to document WO/PBC/22/23.

229. The Delegation of Spain thanked the Secretariat for the report, noting that it had read it quite carefully. It considered that it was a good step forward for the legislative bodies to become aware of how and whether the JIU's recommendations were implemented. The Delegation further indicated that, as the coordinator for Group B had said, in the future, it also wished to have the recommendations directed to the Director General and the Secretariat as a whole included in the report, and not only those addressed to the legislative bodies, in order to enable delegations to become aware of how the Secretariat responded to the recommendations directed to it. The Delegation emphasized its hope for the implementation of recommendation 3 (under JIU/REP/2012/9 "Lump-sum payments in lieu of entitlements"), which also appeared in the last year's report, and which addressed the *per diem* for travel being suspended as soon as possible. It noted that, in the Secretariat's response, this was under consideration, but the Delegation considered it sufficiently important to be implemented as quickly as possible, so that there would be no extended study of it, followed by a transition period, which would hold up what the Delegation felt was a systemic measure of considerable importance, above all in the context of seeking savings that applied to all UN bodies, as well as at a time when there were other requests on the session's agenda to be looked into and which would require resources in order to finance the travel of the representatives of the indigenous communities. The Delegation also felt that this was very important in terms of the general context of savings.

230. The Secretariat first responded to the question from the Delegation of Canada, indicating that, in its view, there was no contradiction between the Secretariat's response and the recommendation. The Secretariat was only pointing out that it was aligned with the proposal to start a new cycle in 2016, and that its planning worked in six-year cycles. The Secretariat responded to the Delegations of Japan and Spain regarding the recommendations addressed to the executive heads, recalling that, as explained the previous year, the Organization was working very closely with the JIU to see whether it could find a way of getting reports which would not duplicate efforts. The report before delegations was actually an extract from the JIU tracking system, which had been recreated and formatted in its current form by the Secretariat, which was a duplication of effort. The Secretariat noted that it would like to be able to draw reports straight out of the web-tracking system, in order for all future reporting to be done in a way that recommendations addressed to both the legislative body as well as to the executive heads could be reported in an extract form, with only a cover saying e.g., "please find attached the report on the implementation of the JIU recommendations". The Secretariat indicated that this was one of the issues that the Organization would raise at a meeting with the JIU focal points scheduled for the beginning of October. Regarding the issue of travel policies and travel alignment, the Secretariat clarified that this was just one amongst many other elements which were being looked at by the organizations across the system – it had found that there were as many variations and permutations as there were UN entities when it came to alignment with the UN. The Secretariat further noted that, unfortunately, the UN kept changing the baseline, which resulted in it always being out of sync regarding this issue. The Secretariat also highlighted that there might be certain areas where entitlements of other modalities may well remain different from the UN, as the latter were not necessarily appropriate for WIPO. The Secretariat would explain to Member States where such cases might occur.

231. The Delegation of Mexico appreciated the report on the progress made in the implementation of the JIU recommendations directed to the legislative bodies as well as the Secretariat's efforts to comply therewith. It wished to comment on the implementation of some of these recommendations. First, the Delegation referred to the JIU report from 2012 and the lump-sum payments and two recommendations. The Delegation requested additional details on the question of taking holidays in the country of origin, which was in relation to the IAOD comments of 2012. It indicated that it also supported recommendation 3 and, like the Delegation of Spain, requested that it be fully implemented, with the suspension of the additional DSA in cases where the officials were traveling on organizational budgets. Regarding recommendation 5, from JIU/REP/2013/1 "Long-Term Agreements in Procurement", it considered that reporting should go beyond the PPR. In implementing this recommendation, organizations were urged to have clear strategies and plans which would show the long-term perspective. The 2013 financial report indicated that the main WIPO expenditures and acquisitions had to do with information and computer purchases, travel and other elements. The Delegation felt that reporting should go further and should provide greater detail. It also referred to the Ethics in the UN System report (JIU/REP/2010/3) cited by the Delegation of Canada, in particular recommendation 16 that "*the legislative bodies should direct their respective executive heads to file a financial disclosure statement, which should be reviewed in the same manner as for all other staff members who are required to file such statements*" and that such statements would merit from being made public. The Delegation noted that a number of delegations, including that of Mexico, had made reference to the fact that the financial disclosure report should be made available and that informal access should go hand in hand with the actual submission of the report.

232. The Delegation of India thanked the Secretariat for preparing the report on the implementation of the JIU recommendations. It wished to raise a point on recommendation 4 of JIU 2012/12 on strategic planning in the UN System. It noted that, as stated in the document, given the nature of the support, it could be difficult to directly plan and attribute this to the achievement of the Millennium Development Goals (MDGs). It inquired whether there were separate discussions in the CDIP regarding the implementation of the MDGs, WIPO's role, and whether any substantive areas would be identified that could be attributable to the

achievements of the MDGs, because there were certain specific MDG goals (maybe six and eight), identified within the area of science and technology transfer. The Delegation asked how long it would take for the Secretariat to reconcile that, also in view of the fact that the end-date for the MDGs was approaching. The Delegation sought information on whether any planning would be done for the post-2015 Development Agenda or SDGs. It also highlighted that, from other delegations' point of view, there were recommendations concerning the governance of the Organization, as well as the South-South cooperation, which were still under consideration and not yet implemented.

233. The Delegation of the United States of America acknowledged the hard work of the JIU and expressed its appreciation to WIPO on the progress made in implementing the JIU recommendations. It took note of the Secretariat's comments regarding the outstanding recommendations, and that this was a living document. It also took note of the annex, which charted the progress of implementation. The Delegation also noted that it had some concerns that five out of the ten recommendations that were currently under consideration had been issued at least three years ago. It urged WIPO to appropriately close these recommendations in a timely manner. Finally, the Delegation was particularly concerned with respect to the outstanding recommendations in JIU's report 2010/3 (Ethics in the United Nations System). It noted that two of the ten outstanding recommendations pertained to ethics, and indicated that it believed that the ethics function was critical for building effective and transparent organizations and urged WIPO to make implementation of these recommendations a priority.

234. The Delegation of Iran (Islamic Republic of) appreciated the efforts of the Secretariat and the progress made in the implementation of some recommendations. Regarding recommendation 7, it requested the Secretariat to clarify how this recommendation would be implemented, especially for developing a Plan of Action to broaden geographical diversity. It also pointed out that, in its view, there was a contradiction between the responses of the Secretariat to recommendations 7 and 8. For recommendation 8, the Secretariat's responded that a comprehensive policy on gender equality was being developed and that a related action plan was in the process of being developed. But in recommendation 7, it said that a program of action would be established in consultation with Member States. The Delegation wondered about the action plan in recommendation 8. In its view, it needed to be drawn up in consultation with Members States. The Delegation welcomed this initiative and wished to urge the Secretariat to establish a Plan of Action with special measures and targets to make geographical representation equal, as reflected in recommendation 7.

235. The Secretariat responded first to the questions raised by the Delegations of Mexico and Spain, and the issue raised by the Delegation of the United States of America on the ethics function. The Secretariat noted that it took the function of ethics very seriously. It was working on this issue, which was under consideration, and would revert to Member States in the next report. Regarding the additional DSA, the Secretariat explained that this was being looked at within the context of many other elements of travel-related issues. The Secretariat highlighted that a revised WIPO policy on travel had already been issued in order to align it with the rest of the UN System. There were still some elements to be looked at and the Secretariat would be looking at these and would revert back to Member States. On the procurement issue, the Secretariat thanked delegations for their suggestions, and noted that it would consider how more information could be provided. It indicated that it would further follow up bilaterally on the suggestions to better understand what information Member States were looking to receive. The Secretariat responded to the Delegation of Iran (Islamic Republic of), noting that the points raised by the Delegation would be covered under the management and administrative review by the JIU, which contained some recommendations related to geographical distribution and gender balance. Regarding the question on WIPO's contribution to the MDGs, the Secretariat recalled that this discussion was currently ongoing in the CDIP. It recalled that, at the request of Member States, the Secretariat was reverting to the upcoming session of the CDIP in November with a revision of the report submitted to its previous session, with a more detailed survey of other organizations, how they reported on their contribution to the MDGs and how they linked

their results frameworks to the MGDs, if at all. The discussion in the CDIP could then inform the planning for the upcoming Program and Budget 2016/17, which would start next year.

236. The Chair asked whether any other delegation wished to take the floor. Since there were none, he read out the decision paragraph for this agenda item. Noting no objections by delegations, the Chair declared the following decision adopted.

237. The Program and Budget Committee (PBC) took note of the status of Implementation of the Joint Inspection Unit (JIU) Recommendations addressed to the Legislative Bodies of WIPO and noted that 12 recommendations have been implemented, two have been accepted and are under implementation, and 10 remain under consideration (document WO/PBC/22/23).

**ITEM 9 JOINT INSPECTION UNIT REPORT “REVIEW OF MANAGEMENT AND ADMINISTRATION IN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)” (JIU/REP/2014/2): SECRETARIAT’S COMMENTS**

238. Discussions were based on documents WO/PBC/22/20 and WO/PBC/22/26 .

239. The Chair introduced agenda item 9 which included the Report of the Joint Inspection Unit (JIU) and the Joint Proposal by the Delegations of Belgium, Mexico and Spain. The relevant documents were WO/PBC/22/20, which was the Secretariat’s response to JIU/REP/2014/2 and WO/PBC/22/26 entitled “Proposal by the Delegations of Belgium, Mexico and Spain: Increasing Efficiency in WIPO Meetings”.

240. The JIU Report on the Review of Management and Administration in WIPO (JIU MAR report) was a comprehensive report which would contribute to further improvement of WIPO’s administrative and management processes. The report included 10 key recommendations of which eight substantive recommendations were addressed to the Director General; one was addressed to the WIPO General Assembly and one to the WIPO Coordination Committee. The contents of the Report had been presented to the Member States at an informal information meeting on July 15, 2014, by the JIU Inspectors. This presentation had been followed by discussions and a Question-and-Answer session between the Member States and the JIU. The document under review included responses on the recommendations made and the details of actions taken by the Secretariat.

241. In accordance with the discussions and the requests made during the adoption of the agenda, the Chair proposed that the examination of recommendation 1 of the JIU MAR take place under agenda item 20 of the adopted agenda which related to Governance at WIPO. The Chair further explained that, unfortunately, Inspector Tarasov could not be present due to a prior commitment and introduced Inspector Flores Callejas of the JIU.

242. The Delegation of Kenya, speaking on behalf of the African Group, wished to recall the Group’s remarks during the adoption of the agenda. The Group believed that the proposal made by the Delegations of Spain, Mexico and Belgium should be part of agenda item 20 and therefore would like the JIU report to be considered as an agenda item and if there would be any recommendations, it would be specifically for that report. If there would be any other discussion on the proposal by the Delegations of Belgium, Mexico and Spain, this should be within agenda item 20 because it referred to the issue of governance and the issue of meetings fell within that ambit so there would be one decision regarding the Governance of WIPO. The Group therefore proposed that with regards to agenda item 9, Member States should consider the JIU report as a standalone item and that the proposal by the Delegations of Belgium, Mexico and Spain be moved to agenda item 20.



243. The Delegation of Mexico supported the proposal made by the Chair. The Delegation expressed gratitude to the African Group for their comments but preferred to keep the item where it currently was. The Delegation understood that there was a certain amount of concern about the governance issues but the proposal that Mexico, Spain and Belgium had tabled related to a very specific practical aspect of the organization of WIPO meetings. The Delegation felt that the issue of governance was important and needed to be discussed, but it included aspects that went a lot further than the simple organization of meetings. For this reason, the Delegation wished to keep it separate from this discussion.

244. The Delegation of Kenya agreed with the Delegation of Mexico on the importance of the issue relating to meetings but considered that this was within the governance issue. The Delegation reported that the African Group had made proposals before, as had other Member States, regarding not only the big issues in governance but also the conduct of meetings and other matters. Therefore, the Delegation wished to have a holistic treatment of this particular item in one go. Whether Member States finally chose to have short-term measures; medium term measures or long-term measures separately was a different matter. The Delegation sought a holistic treatment or discussion on this particular issue and noted that the JIU report had made recommendations and given options with regards to the management of meetings within the governance recommendation. The Delegation was reluctant to hold separate discussions on the management of meetings and governance, given that other Member States had made proposals in the past and should have preferential treatment in terms of the proposals on the table. The Delegation felt that all proposals on the table should be treated equally and, when it came to prioritization, flexibility could be shown on how to treat the issue, but, in terms of discussions, wished that they be taken up together.

245. The Chair requested Member States to be as pragmatic as possible as the topics had been grouped and would all be discussed in order. Agenda item 9 originally had had the two issues put together, at the specific request of the Delegations of Spain, Mexico and others. The Chair suggested having the presentation by the JIU and the Secretariat's response. The presentation by the proponents would be held and be followed by the governance issues. It was the same members sitting in the same room discussing the same things, so Member States could also make connections regarding ideas on this topic.

246. The Delegation of Kenya stated that when it looked at the way the meeting had progressed Member States were carrying out governing decisions by agenda items. So when it came to governance, Member States would have two items as a recommendation which would be reached under agenda item 9 and that recommendation would partly reflect the proposal from Belgium, Mexico and Spain. There would also be a decision under agenda item 20, making two separate decisions, dealing with the same issue which the Delegation did not think was an effective use of time and a pragmatic approach. The Delegation expressed that it was not opposed to the proposal being submitted by the Delegations of Spain, Belgium and Mexico and was ready to discuss this proposal, however, the Delegation wanted to discuss the proposal within the framework of governance and the framework of all the other proposals which were on the table. The Delegation continued that the JIU report was a good report which had gone beyond some of the issues put across by the African Group and other delegations, which had touched on meetings. That was why the proposal had been made; based on that report and within that report. This issue fell within governance, within recommendation 1. The Delegation proposed to hold the two issues together as it felt that when it came to decision making, there would be two decisions and it did not want to deal with one decision regarding meetings and another decision regarding governance. The Delegation proposed a holistic approach with one decision on all the issues dealing with meetings and governance, and suggested that within the discussion there should be sequencing, whether it be short-term measures or long-term measures or medium-term measures, in order to be more effective in terms of how the items were dealt with and in order to avoid inconsistencies in the decision paragraphs. With regard to consultations, the Delegation also proposed that only one consultation be held, as the Delegation had proposed before the adoption of the agenda,

because the Delegation had wanted that issue to be discussed under agenda item 20 and had been clear on this point.

247. The Delegation of Iran (Islamic Republic of) expressed full support for the proposal made by the Delegation of Kenya on behalf of the African Group.

248. The Delegation of South Africa also supported the intervention made by the Delegation of Kenya. As had been mentioned at the beginning of the session, before the adoption of the agenda, a request had been made by the Delegation of Kenya for this item to be placed under Governance at WIPO. The Delegation requested to read from paragraph 2 of the proposal by the Delegations of Belgium, Mexico and Spain: "The efficiency of meetings is closely related to key aspects of the Governance of the Organization...". It was one proposal amongst many proposals which had been made on governance. Therefore, the Delegation wished to discuss the proposal, and give it merit, with all other proposals that had been discussed in previous meetings under the broad framework of governance.

249. The Delegation of Indonesia supported the Delegation of Kenya's proposal and echoed other delegations' position.

250. The Delegation of India thanked the Delegations of Mexico, Belgium and Spain for their proposal, which it understood related to the administrative and organizational aspect of meetings held by the different committees of WIPO, including time management. However, as had been identified by the Delegation of South Africa, this was also one part of the greater picture of governance: how business should be conducted in WIPO. From that point of view, the Delegation felt that it should be part of the governance issue, although the Delegation did not want to unnecessarily link it or drag it to the greater debate, but, if agreement could be reached on some of the points and proposals which had been on the table for several years, something could be achieved.

251. The Delegation of Mexico stated that it had listened carefully to the opinions expressed by other delegations and did not want to continue the debate on what was a procedural issue. The Delegation could support the proposal to discuss this matter under agenda item 20 but wanted to pick up on what had been said by the Delegation of India. The Delegation felt that the broader, more long-term issues should not be mixed up with practical questions which could be dealt with fairly quickly if there was consensus among Members. This issue may be directly related to the issues of governance but there were more complex issues which Member States would have to deal with calmly, which would take longer. The Delegation reported that it remained flexible and its aim was to have a constructive discussion with other delegations.

252. The Chair thanked delegations for the demonstration of the attitude the Member States would need to have towards the fairly complex agenda and suggested addressing the JIU report and the Secretariat's response first. Then discussions would be held on the governance issue with the proponents afterwards.

253. The Delegation of Cameroon congratulated the Chair on his appointment and thanked the Chair for the point raised. The Delegation supported the point raised by the Delegation of Kenya on not wasting too much time and going straight to the point, underlining that it would be more time-effective not to discuss the two points separately as this would take up a lot of time.

254. The Chair introduced Inspector Flores Callejas of the JIU.

255. The JIU thanked the Chair and suggested that the JIU avoid making an actual presentation as this would no doubt be repeating what had been already said and proposed entering immediately into discussions.

256. The Chair, as he had recalled in his opening statement, reminded Delegations that there had already been a presentation to Member States during an informal information meeting on July 15, 2014 by the JIU.

257. The Secretariat reported that it welcomed the JIU recommendations which contributed to the process of continually improving and strengthening WIPO's administrative and management processes. The report included 10 formal recommendations and a number of further soft recommendations, which were "additional suggestions for reinforcing the management framework and related practices at WIPO, with reference to the United Nations system standards and good practices". WIPO would implement, or was in the process of implementing, the recommendations made by the JIU, as contained within the JIU Report JIU/REP/2014/2, which Member States could find in the document prepared by the Secretariat that provided the Secretariat's detailed responses in respect of each recommendation made by the JIU.

258. The Delegation of Kenya, speaking on behalf of the African Group, thanked the JIU for its comprehensive report. The Group welcomed the 10 recommendations and the soft recommendations in the management review. In particular the Group felt that the report made pertinent comments on some of the stickier issues such as WIPO governance and human resources matters such as geographic diversity and gender balance. The Group requested the WIPO Secretariat to maintain the recommendations in full for the benefit of both Member States and WIPO as a whole.

259. The Delegation of South Africa welcomed the recommendations and supported the statement by the African Group and suggested that the management of the Organization be further improved. The Delegation recognized that some of the recommendations were already in progress and appreciated the efforts made to address geographical diversity and gender equity within the WIPO workforce. Recommendation 1 was of particular importance to the Delegation, as the review of the WIPO governance framework had been a long-standing issue in the PBC, as was evident by the number of proposals put forward to identify and close existing gaps in the governance framework to ensure transparency and predictability. The Delegation drew the attention of the meeting to the African Group's proposals to this end, and in this regard called for a full implementation of the JIU recommendations.

260. The Delegation of India thanked the team of JIU inspectors for the comprehensive report on management and administration in WIPO. The Delegation acknowledged the opportunity of having had a briefing session by the JIU team, as well as the Secretariat, and also acknowledged the response provided by the Management and the work undertaken by them already, that was in progress. However, the Delegation wished to reiterate its concern regarding some of the issues also highlighted by the JIU report with regard to governance, as well as geographical diversity in the workforce of WIPO. The Delegation urged all the Member States, the Chairs of the GA and the CoCo, to initiate action to deal with those long pending issues, particularly the governance issue. In that connection, there were several pertinent recommendations made by the JIU on how it should be guided and the Delegation wished to participate constructively in those further deliberations.

261. The Delegation of Japan, speaking on behalf of Group B, presented the Group's gratitude to the inspectors of the JIU for the work embodied in the report entitled "Review of Management and Administration in the World Intellectual Property Organization" (JIU/REP/2014/2). The Group believed that it contained useful recommendations. The Group welcomed the Secretariat's response that they would accept all formal recommendations addressed to them and would take appropriate action with regard to those recommendations addressed to the GA and the CoCo. Group B strongly expected that the recommendations addressed to the Secretariat should be implemented in a timely and appropriate manner and that the follow-up of the implementation should also be done in a timely and transparent manner. The Group felt that attention should be paid to the fact that, in addition to the formal recommendations, the report also included useful 'food for thought' for Member States and the Secretariat, for

discussion on how to further improve the Organization. While they should not be automatically regarded as endorsed recommendations to be implemented, to the maximum extent, Member States and the Secretariat should consider them when substantiating their possible relevant proposals and actions to further improve the Organization. The Secretariat should also inform Member States when they considered them in taking relevant actions. Group B also believed that the IAOD and IAOC should take into consideration the insights contained in the report in their future work. Although the proposal by the Delegations of Belgium, Mexico and Spain, would be dealt with under agenda item 20, the Group wished to comment on the relationship between the JIU report and the proposal. Group B considered that the proposal from the three Delegations was a good example of how the Inspectors' insights in the JIU report had been digested and transformed into a complete and practical proposal to be discussed by Member States at the present session. The proposal presented well how the Delegations should work on the insights included in the JIU report.

262. The Delegation of Mexico thanked the JIU and Inspector Flores Callejas, present at the meeting. Member States had already had the opportunity to hold some discussion with the Inspector during the information briefing but nevertheless wished to reiterate their thanks. The Delegation also thanked the Secretariat for the document which provided the responses to the formal recommendations made by the JIU. The Delegation of Mexico attached a great deal of importance to the work of the JIU on management. The JIU carried out very valuable work for the entire UN System, which was supported by the Delegation. The Delegation would, however, be interested in a constructive discussion which went further. The Delegation saw the benefit of many of the recommendations submitted by the JIU and had specifically mentioned earlier having a compilation of basic texts that would be available to all the Member States, which was not yet available in WIPO. The Delegation also considered that there was some very good advice on how to improve transparency, financial and administrative management to which the Delegation attached a great deal of importance.

263. The Delegation of Spain thanked the JIU for the considerable amount of very good work undertaken to produce the report, and thanked the Secretariat for facilitating that work and being so willing to implement the JIU recommendations and give appropriate follow-up to the report. The Delegation found the report extremely positive and was pleased as it provided a path which could be followed and which would lead to further improvements in WIPO. At the same time, the report taught a very basic lesson, namely that sometimes it was useful to be reviewed by a body outside of the Organization. Sometimes Member States found it very difficult to reach agreement on certain aspects of the way the Organization worked on a day-to-day basis. From time to time, an entity with a little more distance could help overcome the difficulties and the Delegation found that the report had done precisely that. Should Member States act upon these recommendations, the Delegation felt that Members may come to future meetings a little more open minded and a little more flexible. This would be beneficial to the Organization and, of course, to its Member States who would then have greater ability to participate in and influence the development of the approach to be taken by the Organization. The Delegation found the recommendations excellent and added that it attached considerable importance to the informal recommendations as well. These contained very interesting aspects which the Delegation felt, in the next few months, could be worked on further. Together with the Delegations of Belgium and Mexico, Spain had drawn up a proposal to be discussed later, which the Delegation hoped would enable all to take advantage of the recommendations and do something very practical to improve the day-to-day operation of the Organization. The Delegation of Spain found many of the recommendations to be of great interest. It particularly valued the recommendation concerning the need to make continuous improvements to the internal and external coordination in which WIPO was involved when it provided technical assistance programs. The Delegation recognized that this was not an easy task but thought that there was room in which to undertake this. The Delegation requested the Secretariat to keep Member States briefed on the follow-up to the formal recommendations and also, over the next three months, to brief Member States on the progress of the evaluation of the more informal recommendations. In conclusion, the Delegation of Spain wished to put on record the

Delegation's desire to ensure that in the next four or five years the JIU could produce another report to verify the progress which the Delegation hoped would had been made in the meantime.

264. The Delegation of Brazil thanked the JIU Inspectors for their report and the presentation that had been made to Member States in July 2014, where the opportunity had been given to make specific comments. The Delegation also thanked the Secretariat for the responses given. The Delegation joined other delegations in hoping that all 10 of the JIU recommendations would be implemented but wished to focus on a point which had been raised by the Delegation of Spain, namely that there were also soft recommendations and although the Delegation was aware that it was only mandatory to implement the 10 hard recommendations, there were, however, very interesting soft recommendations. The Delegation wished to focus on one of them. The Delegation considered that the importance of the DA was emphasized more than once in the JIU report, not using the word landmark but rather that it was a paradigm shift in the way work was done at WIPO. Therefore, at some point, urging the Member States to implement the coordination mechanism as a soft recommendation and the Delegation would like to see that happen.

265. The Delegation of Iran (Islamic Republic of) joined other delegations in thanking the JIU for the comprehensive report and recommendations. The Delegation requested the Secretariat to implement fully all of the JIU recommendations, especially recommendation 1, related to WIPO's governance and recommendations 6 and 7 related to geographical diversity. The Delegation requested the preparation of a Plan of Action by the end of 2015, as recommended by the JIU team.

266. The Delegation of the United States of America reported that it had a variety of points it wished to raise: general points on governance; some concrete ideas which the Delegation had which had been spurred on by the JIU's report and by the new proposal of Spain, Mexico and Belgium; and the Secretariat's responses to the JIU report. With regard to the general points concerning governance, the United States noted that governance solutions had been identified and in most cases implemented by the IAOC and WIPO Member States without the need for any additional governance structure. The Delegation believed that the current governance structures such as the IAOC, the PBC, and the CoCo etc., were adequate for Member States to exercise their oversight and governance of the Organization. The Delegation continued to be impressed with the efforts of the IAOC, with the Secretariat, in addressing the outstanding recommendations of its predecessor, the Audit Committee. A few years previous, there had been over 300 IAOC recommendations which had been identified for the Organization to address, with a number of them being high risk and very high risk. Great efforts had been made by the Secretariat and the IAOC to fully implement these recommendations. The Delegation would continue to actively engage with the IAOC on the remaining recommendations and any future recommendations to come, in an effort to exercise more effective governance of the Organization. The Delegation was very pleased with the interaction between the PBC and the IAOC, which had dramatically improved over the course of the last few years. The Delegation wished to thank the JIU for their helpful contribution to the discussion on governance and welcomed the JIU Report on Management and Administration in WIPO. The Delegation believed that, in particular, the recommendation 1, to have a review of the governance framework, "with a view to strengthen the capacity of the governing bodies to guide and monitor the work of the organization" was a helpful comment. The Delegation suggested that the Chair of the GA undertake these discussions. The Delegation welcomed the report of the Secretariat's response to the report, as contained in document WO/PBC/22/20. The Delegation was pleased to find that the Secretariat had provided detailed responses in its report and had overall embraced the recommendations. In particular, the Delegation commended the Secretariat for its progress on restructuring the Organization so that it was better aligned with the organizational goals and activities. The Delegation looked forward to full implementation of this recommendation and believed that including the Terms of Reference for all organizational units would help clarify their function and role within the Organization. Furthermore, the

Delegation was pleased that WIPO was taking steps to further integrate the principles of the SRP into WIPO's organizational culture. The Delegation looked forward to continued progress on this initiative. With regard to the specific proposal, the important contribution made by the Delegations of Belgium, Mexico and Spain on increasing efficiency in WIPO meetings, the Delegation generally supported the underlining premise of the proposal, namely the assertions that the number and the durations of meetings, large volume of documentation and high organizational and Member State costs yielded very few results. The Delegation supported the proposed short-term measures and a review of WIPO's working methods. However, with respect to the proposed seminar to review WIPO's working methods, the Delegation would have a few questions to pose to the proponents of this proposal, such as: (i) Would the seminar require additional funding - how would WIPO fund the seminar? (ii) What exactly was meant by (quote) "*series of informal seminars*"? (iii) Would the seminar be a one-time event or would it be held annually? (iv) What was the anticipated duration of the seminar? (v) How many times would it be held per year? (vi) Would the reduction in duration of regular meetings be used to hold the seminar? What sort of documentation would be required by the seminar? Moving on to some concrete ideas and thoughts that had been generated by the overall discussion, the Delegation had given extensive thought to the issue of efficiency of WIPO meetings and again thanked for the contributions of Belgium, Mexico, Spain, and the JIU report. The Delegation expressed concern with the state of affairs with respect to the committees, and again noted with support the view expressed by the proposal of Belgium, Mexico and Spain, concerning the high and increasing financial costs without yielding additional results in the work of the committees. If one looked at the current structure and situation with respect to the WIPO committees using a simple cost benefit analysis approach, it was clear that the lack of technical and substantive work product that was coming out of these standing committees did not justify the amount of money spent on the ever expanding number of meetings. The majority of time in the committee sessions was spent on non-substantive issues for the most part. Member States focused their time on balanced work plans, without even diving deep into the actual work or seeking consensus on how committees would report progress, despite a lack of any real progress on substantive issues. The Delegation felt that the reality was that there was no consensus in a number of areas in these standing committees and the lack of consensus was resulting in too many log jams in various committees which called into question the need of the committee's structure altogether. The Delegation believed that cost saving measures and the refocusing of discussions on technical matters, as opposed to never-ending political debates were crucial priorities if Member States wished to improve the wellbeing of WIPO. The Delegation felt that as Member States, consistency was needed in the approach on reducing costs and using delegates' time more wisely. Specifically, Member States had clearly requested that the Secretariat implement cost saving measures in the current biennium to offset increasing expenditures. As a first step, the Delegation suggested that WIPO should convene fewer meetings in 2015, perhaps having one rather than two meetings per year for most of the committees. The Delegation welcomed continuing this discussion and to begin brainstorming with Member States on how to improve the situation with the committees.

267. The Chair thanked the delegations and responded that some of the questions raised would be tackled when the meeting addressed the specific proposal by Belgium, Mexico and Spain, and for some part of that, the Chair intended to give the floor to the Secretariat and the JIU before opening the floor to the Member States.

268. The Delegation of Canada associated itself with the statement made by the Delegation of Japan on behalf of Group B. The Delegation wished to thank the JIU and recognized its hard work in conducting the thorough and valuable high-quality review which was before Member States which Canada had reviewed with great interest. It thanked Inspector Callejas for his presentation to the PBC and extended the Delegation's thanks to the other Inspectors who were not present on that day. The Delegation also thanked the Secretariat for its response to the JIU review and acknowledged that some of the recommendations were effectively addressed to the Member States and would be for Member State consideration. The Delegation noted with appreciation that the Secretariat was already in the process of implementing some of the JIU's

recommendations. The Delegation expressed an interest not only in the formal number of recommendations identified as such but also, as other colleagues had mentioned, in the Inspectors' numerous observations, dispersed within the review, some of which were, in fact, soft recommendations and looked forward to hearing the Secretariat's views regarding these soft recommendations as well as any follow-up activities. With regard to specific recommendations, the Delegation agreed with the JIU's observation in paragraph 15 of the review, whereby WIPO Member States needed to agree on a shared vision and indeed a fundamental interest, which would raise some specific questions regarding follow-up. The Delegation inquired as to the status of the outstanding resource mobilization strategy addressed by the JIU in paragraph 91 of the review. The Delegation also requested a status update on the implementation of recommendation 2 of the 2013 Report by the External Auditor regarding the formulation of a treasury and cash management policy regarding which the JIU "urge the WIPO Secretariat to take action" in paragraph 110 of the review. The Delegation inquired as to the status of the implementation of the Inspector's recommendation in paragraph 138 of the review, calling for the Secretariat to (quote) "better record the rationale for any selection process" which the inspectors note should be done, furthermore (quote) "as a matter of priority". The Delegation strongly agreed with the Inspectors' observation in paragraph 192 of the review, to the effect that the establishment of the EOs required (quote) "a clear rationale" and "relevant criteria", as well as regarding the need for coordination between External Offices and headquarters as well as among external offices with the view to avoid duplication. The Delegation encouraged all Member States to work towards ensuring that these observations were reflected in the guiding principles on EOs. To conclude, the Delegation echoed comments from the Delegation of Spain to the effect that this review and its recommendation provided the Member States with an excellent and worthwhile guide on the path of continuous improvement.

269. The Delegation of Germany thanked the JIU for the work undertaken in the review and the ensuing recommendations and also the Secretariat for the document presented to the PBC. The Delegation aligned itself with the statement made by Group B and was very pleased to see that the Secretariat was committed to implementing the formal JIU recommendations. The Delegation wished to see this as a process and not a one-time event and requested the Secretariat to present follow-up reports on the implementation of these recommendations. Furthermore, the Delegation wished to see the IAOC and IAOD take account of the JIU recommendations with regards to their future plan of work. With respect to the proposal made by the Delegations of Belgium, Mexico and Spain, the Delegation thanked the Delegations for what it considered to be a very useful proposal. In the last JIU report, it had been stressed that issues such as the number and the duration of meetings, the large volume of documentation, the need to review existing standards and procedures and high organizational costs, were issues that would have to be dealt with and the Delegation welcomed and supported the short-term measures that Belgium, Mexico and Spain proposed in this respect. Moreover, there would be an in-depth review internally of the usefulness of the work of the Committees, with regards to the cost and time invested and the actual output generated and the Delegation reserved its position to come back to not only the short-term measures that were in the proposal, but also to questions on the number of meetings and whether it was really necessary to hold the number of meetings that were currently being held.

270. The Delegation of France thanked the JIU Inspectors and the Secretariat for the report and the preliminary responses to the report, which it had carefully studied. With regard to this exercise, every Member State would tend to look at the report in the light of its own priorities which could lead to some bias but the Delegation thought that the roadmap with its 10 recommendations, and others, would be a roadmap for the next few months and at least the next two years. The Delegation highlighted a number of already familiar points which had been stressed by the Inspectors from an external point of view and which the Delegation thought were important, for example data security, which was of essential importance because of the number of industrial secrets that had to be safeguarded. The Delegation was sure that the Director General would be very attentive to the whole chapter on security. Additionally, the Delegation recognized that the matter of EOs was considered a grey area by the Inspectors.

This had been the reason behind Member States drawing up the guiding principles, in order to try to address this grey zone. Furthermore, there was the question of the number of terms of office and the length of the terms of office of the Director General. There was an appeal for twice five years, which would bring WIPO into line with the other organizations and which the Delegation thought should be looked into. On the matter of governance, the Delegation noted that everything seemed to be encompassed under this chapter and noted that the Inspectors emphasized the limits of informal methods and, in the view of the Delegation, seemed to be calling for a return to the basics or, in any case, to respect of the WIPO Convention, and a thorough use of existing funds. This was not a request for a major overhaul of the institution, that would take up too much time and money, but it was an appeal, also addressed to Member States, to make full use of the existing institutions, not only the PBC, but also the CoCo, which so far had not done very much but had been more or less a rubber stamping body, sometimes not always used in the ways outlined by the WIPO Convention. The Delegation stated that it was up to the Member States and the Director General, to ensure compliance with the WIPO Convention and the terms of reference that already existed on governance. The Delegation also supported being intellectually honest and respectful both of the Member States themselves and the existing instruments. This had been noted from the report. Obviously there would be a follow-up but on the other hand use could be made of what already existed. The Delegation noted that the Secretariat had provided its preliminary response and urged the Secretariat would continue and draw up a table. The Delegation expressed the hope that the Secretariat would follow these detailed recommendations and recognized that the Director General could revert on this by using more structured briefings to make them more institutional, for example, choosing a number of recommendations and concentrating on the follow-up to these. The Delegation felt that this was a healthy exercise and underlined that it was addressed not only to the Secretariat but also to the Member States and expressed the Delegation's wish to play a constructive role in the matter.

271. The Delegation of China thanked the JIU for its work and comprehensive report and the Secretariat for its response. With regards to WIPO governance, the Delegation appreciated the achievements made within WIPO on issues such as internal management, coordination, and oversight. Some of the agenda items before the PBC, such as the revision of the Internal Oversight Charter, reflected the efforts being made in WIPO to improve governance. The view of the Delegation was that WIPO governance was a very complex issue involving many elements. The Delegation suggested that Member States should discuss this issue in a constructive manner to gradually find solutions to the different issues. With more and more tasks and urgent issues in relation to governance structures, WIPO should make full use and improve the existing governing bodies and strengthen coordination and measurement, and improving efficiency, including the functions and the roles of PBC. Only in this way, could the governance of WIPO be effectively improved and better benefit Member States.

272. The Delegation of Chile thanked the JIU Inspectors for their report and the informal meeting held a few months previously, which had led to an interesting debate among Member States. As had been previously expressed, the Delegation also supported the importance of having an external perspective, provided by the JIU, on what was happening which showed areas where there was room for improvement. In addition, the Delegation wished to highlight the importance of the report taking account of the DA as a formal attempt by the Organization to appropriate the needs of the developing countries in WIPO. The Delegation also supported the views of other Delegations with respect to the soft recommendations. The Delegation believed that being kept informed on their possible implementation, as suggested by the Delegation of Spain, was a good suggestion. With regards to the proposal for increasing efficiency in WIPO meetings which had been submitted by Belgium, Spain and Mexico, the Delegation of Chile expressed its gratitude for this proposal and shared the spirit of it. The proposal mentioned paragraphs from the JIU report. The Delegation noted that the duration of meetings and sessions came up against the challenge of achieving agreements that often reconciled diverging views. There was a certain impact to limiting the number and duration of the meetings. There would be an impact on the substance, although, of course, this was welcomed



by those who had to work long hours, very often without reaching any agreement. The Delegation believed that more information on the number of meetings would help Member States to complement this proposal. Additionally, the Delegation expressed a number of doubts concerning the impact that this proposal might have on informal consultations that take place in parallel to the plenary meetings, as the proposal in paragraph 2 only mentioned avoiding the overlap of official meetings. The Delegation sought clarification as to whether this also included informal consultations which very often happened in parallel to the plenary meetings, recognizing that for smaller delegations this might be a challenge and perhaps also a complication. The Delegation requested the Secretariat for further information on this point.

273. The Delegation of Australia thanked the JIU for its very helpful and constructive report. The Delegation supported the GA giving further consideration to recommendation 1, with regards to a review of WIPO's governance and current practices, in order to strengthen the existing bodies to monitor the work of the Organization. The Delegation was also open to further discussions on how to increase the efficiency of the Organization and better support the functioning of WIPO committee meetings; a properly functioning Organization which achieved results was in the interest of all Member States. In this vein, it was not in Member States' interest for committees to spend significant amounts of time to discuss agendas and future work plans and the Delegation looked forward to examining how to address some of these issues. The Delegation expressed its appreciation for the work of the Secretariat, the IAOC and IAOD in implementing these and other JIU recommendations.

274. The Delegation of Greece congratulated the Chair for his efficient and wise guidance of the Committee. The Delegation fully aligned itself with the statement made by the Delegation of Japan on behalf of Group B. The Delegation thanked the JIU for the comprehensive report and the Secretariat for its detailed response. The Delegation wished to support the proposal submitted by the Delegations of Belgium, Mexico and Spain as a pragmatic and realistic approach and furthermore would be interested in hearing further information concerning the proposed series of informal seminars.

275. The JIU Inspector thanked the Chair and congratulated him on his election. The JIU Inspector had listened very carefully to all the Delegations who had made interventions and expressed the gratitude of the JIU that the message of the report had been taken on board, not only by Delegations, but also by the Secretariat. The JIU confirmed that there were 10 recommendations, of which one recommendation was directed to the WIPO GA, one to the CoCo and eight to the Director General. The JIU found them all important, but in addition, the Inspector spoke of the number of soft recommendations, which were contained in the report precisely to strengthen dialogue between delegations and the Organization. The JIU found the follow-up to the formal recommendations to be very important and used this opportunity to thank the Secretariat for its efforts, not only as regards this report, but also other reports and reported that WIPO was well ahead of other UN organizations in this respect. The JIU Inspector extended his thanks both to the JIU staff for their support in drawing up this report and to the WIPO staff who had assisted the JIU in obtaining the relevant documentation for the report and recognized that without such help it would have been a difficult task.

276. The Secretariat thanked the JIU and the Member States for their comments. Firstly, the Secretariat referred to the words of the Delegation of Germany that this was a process and as such it would be a continuing process. Furthermore, this also formed part of the continuous improvement that the Organization had embarked upon over a number of years and the review actually added value through its recommendations both hard and soft. The Secretariat reported that the number of policies which had been presented during the year for improving the responses to recommendations, not only JIU recommendations, but audit observations coming from the IAOC, IAOD, and the External Auditors was part of this whole process and took the Organization forward on the path of continuous improvement. In answer to the question posed by a number of Delegations as to how the Secretariat would deal with these recommendations, the Secretariat reported that Member States already had the first element of the response as

the ten recommendations had been totally accepted. As Delegations would have noted from the report given the previous day on the status of the JIU oversight recommendations, two recommendations addressed to the legislative bodies were already included in that report as the first two items on the first page, as part of the tracking system. As mentioned previously, all of these recommendations would find their way into the JIU tracking system where Member States would be able to follow them as they advanced. The soft recommendations were being actively looked at. Some of the questions raised by the Delegation of Canada were related to the soft recommendations and the Secretariat's initial reactions to these were already included in the additional information paper to be found at the bottom of the PBC website. The Secretariat invited Member States to review this paper, which showed the Secretariat's plan for some of the soft recommendations and also highlighted those which were being considered. The Secretariat concluded by reiterating that this was part of a continuous improvement cycle to strengthen internal controls, improve effectiveness and efficiencies.

277. The Delegation of Algeria apologized for taking the floor at a rather late stage in the discussion but had wanted to be able to benefit from the feedback of the Secretariat and the JIU team before speaking. On the issue of governance, the Delegation expressed concern that some of the issues may be swept under the carpet and that the Organization was suffering slightly at the moment from the problem of the blind leading the blind without knowing where everyone was going. The Delegation reported that there did not seem to be agreement on the general direction that the Organization should be taking and that all concerned seemed to be trying to play the ostrich by taking decisions on the schedule and duration of meetings, an action plan here, an action plan there. In the view of the Delegation only one recommendation really needed to be taken into account. That was the JIU recommendation 1, to the effect that the WIPO GA, the supreme body of the Organization, should review the WIPO governance framework. The GA was the highest level body within WIPO and should have the main responsibility for guiding its direction. However, all that was available was a letter to the chairman of the GA who, as the Delegation understood, would be free to decide whether or not this point actually deserved consideration. The Delegation continued that unless it was mistaken, its impression was that this was not the best possible response that Member States could make to this recommendation. The Delegation certainly did not consider it to be so because as the Secretariat had said, this was a process, which had to be looked at over the long term. However, if it was going to be over the long term, it needed to be started and the Delegation felt that it was necessary to get a grip on this problem and tackle it once and for all. The Delegation repeated that it considered the situation as a little bit the blind leading the blind without knowing where everyone was really going and that Member States had been trying to ignore a problem which had been there for quite some time. The Delegation concluded by requesting the Secretariat for information on what follow-up had been given to the letter sent to the Chair of the GA and what the consequences of that would be for the agenda of the Assemblies.

278. The Chair reported that some of the comments of the Delegation of Algeria were shared by other representatives, the delegation of Canada had, in fact, raised a similar issue and the issue of governance would be discussed under the next agenda item.

279. The Secretariat responded that discussions on the item of governance would follow next. Further to these discussions the PBC Chair, would be conferring with the Chair of the GA in order that the GA Chair could then decide what the next steps were. With regard to recommendation 1, which was addressed to the GA Chair, the Secretariat had, in fact, complied with this recommendation by seizing the Chair of the GA on this matter. What would follow next was the debate which would inform the GA Chair. The Secretariat had put itself at the disposition of the GA Chair and were waiting for the GA Chair to engage.

280. The JIU addressed the meeting as they wished to add the point that the JIU felt it was important to stress the question of the next JIU review of the Organization. The JIU had a work program but the Inspector did not think that there would be a review scheduled for WIPO earlier

than seven years hence unless, of course, one was formally sought from the JIU by the Organization. This was in response to a point raised by the distinguished Delegation of Spain.

281. The Chair proposed that the meeting consider the decision paragraph (regarding it as part of the general agenda item which was now the full agenda item) as distributed in the original document and read as follows: *“The Program and the Budget Committee took note of the Secretariat’s comments on the Joint Inspection Unit’s (JIU) Report “Review of Management and Administration in the World Intellectual Property Organization” (JIU/REP/2014/2) (document WO/PBC/22/20), including: (i) the action taken by the Director General to send letters to the Chairs of the WIPO General Assembly and the Coordination Committee, drawing their attention to the recommendations addressed to legislative bodies by the JIU; and (ii) the progress made on the implementation of the recommendations addressed to the Director General.”*

282. The Delegation of Mexico did not have any specific wording for the draft decision at this stage but thought that there was a practice normally followed in other organizations of the UN System when JIU recommendations were noted as a result of their management and administration reviews. This practice was that a follow-up report on the application of the recommendations was sought. The Delegation had suggested this for the consideration of the PBC because it thought that the PBC may wish to draft some wording and repeated that this was the practice in other organizations and as such wished to flag this point.

283. The Secretariat requested clarification from the Delegation of Mexico. There was a standing item on the PBC agenda which concerned the follow-up on JIU recommendations which would include reporting on these recommendations as well as all the other legislative body recommendations. The Secretariat asked the Delegation of Mexico if it was asking for wording on this specific report because, as the Secretariat had reported earlier, the legislative body recommendations had already been fed into the standing item on the JIU reviews.

284. The Delegation of Mexico replied that this was a possibility which could be considered, of course, but as the Delegation recalled, the item on the PBC Agenda on the JIU recommendations referred only to the recommendations directed to the Legislative Bodies. It did not include recommendations to the Secretariat and given that this was an exception on the part of WIPO, the Delegation considered that it might be worthwhile for the report to refer to all of the recommendations and not only those which were directed to the legislative bodies, this was the reason why the Delegation would like to make this suggestion.

285. The Chair suggested that, in order to be constructive at this stage, delegations wait until there was a proposed amendment to the decision paragraph and then Member States could consider this later. The Chair asked Member States if he would have their agreement to close the discussion at this stage and then return to it when the proposed amendment from Mexico was available in writing.

286. The Secretariat clarified that, the previous year, Member States had requested the IAOC to also follow up on JIU recommendations. There were the legislative body recommendations, which were standing items and the remaining recommendations, which the Secretariat was seriously considering, addressed to the executive heads. The recommendations addressed to executive heads were reported back through the reports provided to the IAOC for their review. The Secretariat stressed that it was important avoid duplication or triplication in the efforts of reporting.

287. The Delegation of Spain supported the intervention made by the Delegation of Mexico. The Delegation also felt that it might be necessary to find some specific language which Member States would be comfortable with. The Delegation noted that it would be helpful for the Committee, once a certain amount of time had passed, to be able to compare the elements in the reports and not only the recommendations in the strict sense of the term. Member States needed to see whether any progress had been made. It was not a question of asking the Secretariat to implement all the elements in the report because many of them did not concern

the Secretariat; it was a question of being able to make a comparison. At the moment, very little time had gone by since the preparation of the report but when more time had passed, Member States would need to look at how much progress had been made on all the elements included in the report and not just those in the formal recommendations. Therefore the Delegation aligned itself with the Delegation of Mexico. Secondly, and the Delegation was hopeful that this would also be part of the decision, a request would be made by this Committee that in, for example, five years' time, if it was deemed appropriate, the Committee would wish to invite the JIU to do conduct another review. The Committee may or may not find this necessary but in the affirmative, may wish to commission the report and the Delegation suggested taking a decision at the present moment to decide in five years' time as to whether another JIU report was necessary or not.

288. The Delegation of India, supported the idea put forward by the Delegations of Mexico and Spain and requested some language in the decision paragraph to reflect some continuous reporting to the PBC on successive follow-up of the JIU report and in line with the Delegation of Spain's suggestion, consideration after five years, or after a gap of some years of another review.

289. The Chair seeing that there was support for the idea, proposed that the meeting wait for a specific proposal to be circulated and suggested that the agenda item be left pending. The Chair encouraged Delegations to come forward as soon as possible with a specific text and suggested discussions with the Delegations of Mexico, Spain and India on the appropriate wording in order that this could be circulated to all and requested Member States to move on to the next agenda item adjourning agenda item 9 for the present moment.

290. Discussions on agenda item 9 resumed and the Chair updated the meeting that the proposed amendment to the draft decision paragraph to WO/PBC/22/20 had been circulated to delegations. The Chair proposed that the meeting address this matter to see if a decision could be reached and read the new proposed text, reading first the text of the original agenda 9 decision and then highlighting the additions. *"The Program and Budget Committee took note of the Secretariat's comments on the Joint Inspection Unit's (JIU) Report "Review of Management and Administration in the World Intellectual Property Organization" (JIU/REP/2014/2) (document WO/PBC/22/20), including: (i) The action taken by the Director General to send letters to the Chairs of the WIPO General Assembly and the Coordination Committee, drawing their attention to the recommendations addressed to legislative bodies by the JIU; and (ii) The progress made on the implementation of the recommendations addressed to the Director General."*

291. The Chair continued with the proposed addition to the decision paragraph and read as follows: *"The Program and Budget Committee also decided to: (i) Request the Secretariat to present a follow-up report for the next PBC on implementation of the JIU MAR recommendations and other actions taken in response to the report; and (ii) Consider, in four years, if a new MAR should be requested from the JIU."* The Chair continued that this was the text which had been presented and discussed.

292. The Delegation of the United Kingdom thanked the Chair and those who had worked on the draft and presented the Delegation's comments with regards to the newly added text and especially to (ii) of the text. The Delegation was concerned with this language because taking into account the fact that WIPO had just been reviewed and found to be in a sound condition, especially in the Geneva context, delegations should look at this point of view. Member States were aware that the JIU had its own work plan. The JIU already performed checkups at regular intervals. In the worst-case scenario, Member States could always go back to the JIU and speed up the process by asking the JIU to put WIPO earlier on the agenda. The Delegation did not want to send a wrong message with another review in four years and therefore was not able to support (ii) as it stood. On the other hand, the Delegation had listened to the delegations who asked for its addition, and was aware that some Delegations would like to have some form of recognition of the work of the JIU, and suggested that instead of the text in (ii) as it currently

stood, other language could be used which would recognize the work of the JIU and the important role that the JIU had in undertaking these regular reviews. The Delegation strongly supported recognizing the important role of the JIU but believed that the current paragraph (ii) would send the wrong message.

293. The Chair suggested that the Delegation of the United Kingdom present a clear proposal and discuss it with the proponents of the adjusted text before presenting it to the floor. As Delegations did not seem to be uncomfortable with the rest of the proposal, it was basically (ii) which was being addressed.

294. The Delegation of Hungary supported the request made by the Delegation of the United Kingdom. The Delegation felt that the text as it currently stood was superfluous given that the JIU had its own agenda but thought that it was a good proposal.

295. The Chair requested delegations to come up with a specific draft and to have discussions with the Delegation of Mexico and Spain, who were the main proponents of the adjustment, before bringing the text regarding (ii) back to the floor.

296. Subsequent to further consultations, the Chair put forward the revised decision paragraph for the consideration of the meeting. As there were no comments from the floor, the following decision paragraph was adopted.

297. The Program and Budget Committee took note of the Secretariat's Comments on the Joint Inspection Unit's (JIU) Report "Review of Management and Administration in the World Intellectual Property Organization" (JIU/REP/2014/2) (document WO/PBC/22/20), including:

- (i) the action taken by the Director General to send letters to the Chairs of the WIPO General Assembly and the Coordination Committee, drawing their attention to the recommendations addressed to legislative bodies by the JIU; and
- (ii) the progress made on the implementation of the recommendations addressed to the Director General.

298. The Program and Budget Committee also decided to request the Secretariat to present a follow-up report for the next PBC on the implementation of JIU Management and Administration Report (MAR) recommendations and any other actions taken in response to the report; and

299. The PBC recognized the important role of the JIU in undertaking management and administration reviews of UN agencies and welcomed the JIU practice to undertake these at regular intervals.

## **ITEM 10 PROGRAM PERFORMANCE REPORT FOR 2012/13**

### **(a) PROGRAM PERFORMANCE REPORT FOR 2012/13**

300. Discussions were based on documents WO/PBC/22/8 and Corr.1 and 2.

### **(b) INTERNAL AUDIT AND OVERSIGHT DIVISION (IAOD) VALIDATION REPORT ON THE PROGRAM PERFORMANCE REPORT FOR 2012/13**

301. Discussions were based on document WO/PBC/22/9.

302. The Chair announced that the items (a) and (b) would be discussed together and invited the Secretariat to introduce the PPR for 2012/13.

303. The Secretariat introduced documents WO/PBC/22/8 and Corr. 1 and 2, recalling that the PPR 2012/13 was an end-biennial report, which assessed progress made and achievement of the expected results, measured by the performance indicators and with the resources approved in the 2012/13 Program and Budget. In the biennium, progress had been made on all the strategic goals, and over 70 per cent of all targets were assessed as fully achieved. The 2012/13 biennium marked the Organization's first opportunity to report against a results-based budget. The PPR 2012/13, therefore, contained several key reporting enhancements including biennial views of actual expenditure by expected results. In line with the requests made by Member States, the PPR 2012/13 included biennial performance dashboards for each of the nine strategic goals, as well as a view of achievements by individual results. In addition, the performance tables were significantly enhanced to reflect both the original and updated baselines (as at end 2011), as well as the targets as *per* the 2012/13 Program and Budget. The quality assurance process was also strengthened in the preparation of the PPR 2012/13 including in the application of the traffic light ratings. The preparation of the report had systematically taken on board the IAOD PPR validation findings and recommendations and would continue this practice in the preparation of subsequent cycles. The structure of the PPR was duly noted as follows: the introduction provided an explanation of the performance assessment methodology applied; a summary of achievements in the biennium 2012/13; information on the consolidated budget as compared to the actual expenditure in 2012/13; and a report on development expenditure in 2012/13, which provided more refined reporting on development expenditure for 2012/13 as compared to the previous biennium (2010/11). The enhancements had been possible because of the establishment of a better tracking system through the implementation of the ERP projects. The PPR also contained a report providing a final overview of the implementation of cost efficiency measures in 2012/13. It was further noted that the report reflected the Secretariat's commitment to pursuing all feasible options for enhancing cost efficiency measures, including the identification of additional measures beyond those described in the 2012/13 Program and Budget document. The document also contained program achievements by strategic goal, which provided a summary of the expected results in 2012/13 as measured by performance indicators and a related traffic light system, reflecting the degree of implementation achieved for the Programs contributing to each strategic goal. The Appendix of the PPR contained a comprehensive overview of the implementation of the Funds-in-Trust in 2013.

304. The Chair invited the Director, IAOD to present document WO/PBC/22/9 (the IAOD Validation Report on the Program Performance Report 2012/13) as he wished to discuss the two documents together.

305. The Director, IAOD noted that the IAOD Validation Report on the PPR 2012/13 was the fourth independent validation exercise conducted by IAOD. The IAOD had carried out a validation based on an in-depth analysis of a sample of performance indicators, chosen in a random manner. The objective of the validation was to check independently the reliability and the authenticity of information on the implementation of the program and also the implementation rate of the recommendations contained in the previous validation report for the biennium 2010/11. The IAOD noted that considerable progress had been made in this regard. It was confirmed that the transfers made during the biennium had been carried out in accordance with the financial regulations. The main results of this validation exercise were as follows: 81 per cent of the performance indicators reviewed were relevant and valuable; 77 per cent were clear and transparent, 71 per cent were sufficient and comprehensible; and 68 per cent of the performance indicators reviewed were efficiently collected and easily accessible; accurate and verifiable; and reported timely. It was noted that there was room for improvement. Nine programs, i.e., 29 per cent, still had difficulties in collecting, analyzing, and communicating sufficient and detailed data to back up the performance indicators and the findings of the audit on results-based implementation was that the data could be more relevant in certain cases. On the basis of the findings, five recommendations were made: (i) to further improve the quality assurance of the program performance framework (ii) to develop a better procedure for incoming and outgoing personnel to be informed about program performance

measures, (iii) to improve the systems and the follow-up instruments in order to guarantee data about implementation is properly gathered and analyzed, (iv) to develop a standard survey for information for Member States, and (v) to improve the presentation of the approved budget and the transfers by program in the Program and Budget.

306. The Delegation of Japan, speaking on behalf of Group B, thanked the Secretariat for preparing the PPR for 2012/13. Group B welcomed the fact that 72 per cent of performance indicators had been assessed as fully achieved. It wished to express a general feeling that WIPO had done great work in the 2012/13, which was supported by the complete figures of Performance Indicators. With respect to the informative content of the report, Group B noted some improvements, including the summary of achievements for respective strategic goals which enabled Member States to understand the level of achievement from a more macro perspective. Group B also wished to commend the Secretariat for the substantial improvements to the traffic light system in this edition of the PPR in line with comments made by Member States at the PBC in 2013. It noted that these improvements enhanced the quality of performance reporting and supported results based management. In this regard, the Group welcomed the assessment by the IAOD that four recommendations made in the validation of the PPR 2010/11 and on the eight open recommendations from the validation of the PPR 2008/09 had been implemented. Group B also agreed with the five recommendations described in the IAOD Validation Report for the PPR 2012/13 and strongly encouraged the Secretariat to fully implement those recommendations in an appropriate manner. With respect to recommendation 5 on the transparency of the transfer of funds, Group B welcomed further enhancement of the transparency of reporting in the PPR. It noted that it should not negatively impact the flexibility in the use of funds for program activities. Group B also encouraged the Secretariat to continue its efforts in order that Member States could understand the achievements of the Organization and what should be improved in the following biennium. It was noted that 28 per cent of performance indicators were assessed as partially achieved, not achieved, and other, meaning that they would need further improvements so as to be assessed as fully achieved or, alternatively, more appropriate performance indicators should be developed. In order to realize such improvements, both the Secretariat and Member States should know the reasons and the background as to why those performance indicators could not be assessed as fully achieved, as any mitigation strategy would completely depend on those reasons. Group B noted its expectation for such information along with corresponding mitigation strategies, to be included in an easily readable manner in future PPRs. Group B also welcomed the successful implementation of Strategic Goal II, Provision of Premier Global IP Services, and acknowledged the fact that the Organization had successfully managed to deliver quality services and enhance the customer experience on the one hand, while improving productivity through well designed initiatives on the other hand. For further developments of this core aspect of WIPO's work, Group B wished that appropriate mitigation strategies, if necessary, including appropriate and adequate resource allocations, be introduced to some not fully achieved elements under this strategic goal, for example, persistent issues of monitoring the system. As for Strategic Goal IV, Coordination and Development of Global IP Infrastructure, the Group was also glad to see good progress in the area of global IP databases, classifications and IP office modernization. Taking account of the importance of this strategic goal from the viewpoint of WIPO's core mandate, it was noted that further improvements through the application of appropriate mitigation strategies, if necessary, including appropriate and necessary resource allocations, would be expected. Additionally, Group B thanked the Secretariat for the inclusion of the final report on the Implementation of Cost Efficiency Measures in the 2012/13 Biennium. The Group expressed its strong hope for the measures to be continuously pursued in future biennia. Lastly, Group B emphasized that the performance program approach should be used in a positive way for the improvement of performance in the following biennia rather than for identifying what had not functioned properly. It strongly advocated a performance culture in WIPO, wherein program difficulties were identified so that the Secretariat could follow up with appropriate, immediate action designed to support the program or a project, including strategic guidance, mitigation strategies, staff training, stakeholder consultation, and where appropriate, increases in resourcing following a PBC discussion, if needed. It was noted that closure of the

program and/or the allocation of work should be a last resort and only occur where performance could be manifested through restructuring. The use of the lessons learned procedure and the promotion of knowledge sharing, which must be integrated into the LBM overview proposed by the IAOD, was strongly advocated to avoid duplication of errors.

307. The Delegation of El Salvador thanked the Secretariat for the detailed presentation of the report. It was pleased to see that the recommendations from the past biennia had been applied and that specific information about El Salvador and the programs relating to it were found on page 118 in the Spanish version of the PPR. The Delegation expressed its thanks for the IAOD Validation Report, acknowledging the independent nature of the report. It further noted that this was the fourth IAOD validation of the PPR since 2008 and that the validation provided for an independent verification of the reliability and genuine nature of the data contained in the PPR, as well confirming whether recommendations had been applied or not. The validation also confirmed that the transfers of funds between programs were made according to the Financial Regulations. The Delegation noted that the validation report enabled it to better understand the content of the PPR.

308. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, expressed appreciation for the progress achieved in the implementation of defined goals and performance indicators in comparison with previous periods and also the more understandable and transparent presentation of achieved performance. Regarding Program 10, of particular interest to the CEBS Group, although the results in general seemed to be satisfactory, the Group encouraged the Secretariat to consider further improvement of the Performance Indicators, particularly with regard to clearer alignment between the performance indicators and the relevant WIPO activities. It was noted that WIPO should continue to provide transparent and understandable reporting in the current biennium. The Delegation further noted, however, that the results of some programs still remained unsatisfactory, particularly Programs 6, 31, 12, 14, and 23. Therefore, the Group asked the Secretariat for the information on the measures to be taken so that the current situation regarding these programs would improve, if possible already during the current biennium. With respect to the IAOD Validation Report, the CEBS Group took note of the report. The implementation of the IAOD recommendations would undoubtedly contribute to higher efficiency of management and evaluation of programs. Therefore, the Group expressed its wish for the Secretariat to commit to implement the five IAOD recommendations.

309. The Delegation of China thanked the Secretariat for having prepared informative documents on the PPR 2012/13 and noted the usefulness of the report for Member States to have an overview of WIPO's activities over the past two years. It noted that the Organization had made progress in achieving its nine strategic goals, with more than 80 per cent of the indicators having been fully achieved or partially achieved. The Delegation welcomed these results. At the same time, it noted that certain indicators had not been achieved and expressed a desire for the Secretariat to study the reasons for the non-achievement so as to draw lessons for future years. The Delegation also expressed its appreciation of the Validation Report by the IAOD and took note of the five recommendations. It expressed its hope that the Secretariat would take these five recommendations to heart.

310. The Delegation of the United States of America thanked the Chair for the floor and, in the interest of full disclosure, noted that its statement would be long. The Delegation supported the statement made by the Delegation of Japan on behalf of Group B and thanked the Secretariat for the PPR 2012/13 and the corrigendum. It noted that its comments would focus on Program 30 and Program 6. On Program 30, the Delegation was pleased that this Program was fully achieving its performance targets as reflected in the 2012/13 PPR. It noted that the Program's success enabled WIPO to capitalize on synergies, to advocate and to train SME users, particularly those from developing and least developed countries Member States on commercialization of IP. It further noted that the Program placed a much-needed emphasis on a core aspect of IP rights, namely incentivizing innovation through commercialization. At the



last PBC, Program 30 had reflected a certain number of posts and positions. The Delegation would appreciate receiving an update on the full resources, including personnel. In addition, the Delegation understood that the name of the Innovation and Technology Sector had been changed to Patents and Technology. It asked if this change was significant for Program 30 since innovation had been removed from this title and Program 30 fell under this Sector. The Delegation noted that the contribution of continued funding and current staff levels in place to implement its mission had led to positive results for this Division. The Delegation continued to look at this Program with great interest and looked forward for confirmation that its resources would be maintained for its continued success. Turning to Program 6, on page 8 of the PPR, it is noted that the Lisbon Union during its assembly in 2013 had decided to hold a diplomatic conference in 2015. The Delegation stated that it was surprised by that decision as the Lisbon Agreement Article 9.(2)(b) read: “*with respect to matters which are of interest also to other unions administered by the organization, the assembly shall make its decisions after having heard the advice of the Coordination Committee.*” As described on page 8 of the PPR, the Lisbon Union had been addressing several interesting issues including the expansion of the Agreement to include geographical indications (GIs). GIs, like the appellations of origin (AOs), could be protected as trademarks and thus the expansion of the Lisbon Agreement into the scope of that which could be protected under the Madrid System, would clearly have been of interest to the Madrid Union. Moreover, it was noted that the Lisbon Union did not generate the funds necessary to pay for its expenses and that by deciding to hold a diplomatic conference without providing the funding, it would be spending the resources of other unions, which would clearly also be a matter of interest to other unions. Therefore, the Delegation requested clarification as to how the decision of the Lisbon Union could be considered legitimate if it did not follow the terms of its own Agreement under Article 9.(2)(b). The Delegation requested that the relevant paragraph on page 8 of the PPR note that the provisions of the Lisbon Agreement, specifically Article 9.(2)(b), had not been followed and that an objection had been made. Furthermore, with regard to the section on Program 6 under the PPR, the Delegation reiterated its comment made at the December 2013 extraordinary GA that the Madrid and Lisbon Systems should not be described together. The written presentation in the Program and Budget and in the PPR was confusing and did not facilitate proper evaluation of the two systems. The Delegation requested that the two systems be more clearly separated in the Program and Budget reporting. The performance data charts (pages 82 to 84) of the PPR should be divided into one chart for the Madrid System and another for the Lisbon System, as these were separate unions and each union's performance data should be separate. Similarly, the budget and the actual expenditure tables (pages 84 and 85) for the two systems should be split to provide clarity. Further reference was made to a discrepancy between figures in the Budget and Actual Expenditure by Expected Result table on page 84 of the PPR, specifically under the expected result entitled Better Use of the Madrid and Lisbon Systems including by developing countries and LDCs, and the consolidated chart of expected result on page 29. Specifically, on page 84, it was noted that in 2012/13 the approved budget was 7,103 million Swiss francs and the budget after transfers were 7,362 million and the expenditure during those years was 7,256 million Swiss francs. However on page 29, the budgets were noted to be substantially different. The approved budget stated 7,841 million Swiss francs. The budget after transfers was noted as 7,936 million Swiss francs. It was also noted that the expenditure, again, was different, namely 7,696 million Swiss francs. The Delegation sought clarification as to which set of figures was correct. One of the biggest problems with respect to these figures was that they were combined to include both the Lisbon System and the Madrid System figures. The Delegation requested a breakdown of the expenditure between the two Systems, specifically how much of the expenditure was actually attributable to the Lisbon System, and separation of the numbers. In particular, the Delegation requested clear and separate reporting of the financial matters of each union, which would be consistent with the decision paragraph in the PPR presented to the Member States. Paragraph 3 (d)(i) read: “ensure that lessons learned from implementation in the 2012/13 biennium are duly taken into account for the implementation of the 2014/15 Program and Budget”. On page 83 of the PPR, concerning the expected result “Better Operations of the Madrid and Lisbon Systems”, the Delegation requested that the section be updated to address the bleak financial situation of the Lisbon System. It was noted

that for eight years, the total deficit under the Lisbon System had been 2,511 million Swiss francs. For the next biennium, a Performance Indicator concerning percentage of financial self-sufficiency should be added. Lastly, the Performance Indicator assessing increased awareness of the Lisbon System (page 84) noted that the target had been “fully achieved” with at least 85 per cent of participants in the Lisbon System events being satisfied, without having reported on outreach or enhanced awareness. The Delegation expressed interest in receiving information about these outreach events and the awareness gained by these events. It was further noted that, in terms of awareness of the issue associated with the Lisbon System, the GIs landscape for governments and businesses had become even more confusing than it currently had been due to the Lisbon System’s proposal to include GIs in its registration system. The basic proposal to the Lisbon Working Group included substantive harmonization standards that were directly in conflict with GI protection standards in many WIPO Member States under their national laws. The Delegation was puzzled how a significant majority of Lisbon outreach participants could be “satisfied” with this unsettling paradigm, which currently affected a subset of GIs, the Appellations of Origins (AOs) in particular, but could have the potential effect to affect all GIs and many trademarks under this basic proposal. To bridge this gap, and as explained earlier, so as to clearly distinguish between the work of these two unions, the Delegation believed that the expected result, “Increased awareness of the Madrid and Lisbon Systems”, should be separated into (i) Increased awareness of the Madrid System, and (ii), Increased awareness of the Lisbon System. It was further noted that the Lisbon System currently provided for the protection of the AOs registered with the International Bureau and not specifically for such protection for the GIs. The Delegation suggested that a new Performance Indicator be included to assess, “progress in the international policy dialogue on the relationship between appellations of origin, GIs, and trademarks.” With substantive concerns over Lisbon, a decade of stalled discussions at the SCT, an impasse of the WTO and GI negotiations, and the trading of GI lists, in particular trade agreements, it was noted that there needed to be a discussion among Member States on the relationship of GIs vis-à-vis trademarks and a Performance Indicator that reflected the current reality that there was a lack of agreement on this issue, which was extremely important to the Delegation. To create parity, yet separateness, between these two systems, it was further suggested that a soft policy metric be created for the Madrid System such as: “*progress in the international policy dialogue among WIPO Member States on trademark protection through the use of the Madrid System*”. The Delegation noted that with clearer reporting and additional performance indicators WIPO could, quote: “*enhance its implementation of results-based management, in particular its performance assessment and related reporting*”. This was also part of the decision paragraph to be adopted by Member States.

311. The Delegation of Mexico thanked the Secretariat for the PPR 2012/13. It was the criteria established in the Program and Budget for that biennium in accordance with what had been approved by the Assemblies in 2011. The Delegation echoed the praise offered by other delegations on the progress that had been made in drawing up a more effective results-based assessment framework and noted that it was pleased to see that 72 per cent of the goals had been met. It further noted that some of the achievements made as well as future challenges should be highlighted. Within the international framework, it recognized the work of WIPO to meet its goals on copyright, resulting in two new treaties, the Beijing Treaty and the Marrakesh VIP Treaty. It further noted that the Organization had also made efficient use of human and financial resources and that there was proof of the positive impact of consensus between Member States in relation to assessing international intellectual property services, in particular in relation to the PCT system. In the Madrid System, the Delegation mentioned that the document highlighted satisfactory targets that had been achieved, including the number of parties to the Protocol and the use of the System, noting, in particular that the accession of Mexico and Colombia had been an important event, expanding the geographical scope with two more Latin American countries. Under the Hague System, there were both, results achieved and a lack of results achieved, particularly as regards increased use of the System. The approved budget and resources needed to expand the System were limited and impacted the achievement of the goals. Regarding Strategic Goal III, the Delegation recognized the national

and regional capacity building events that had been conducted, particularly through the distance learning center platform. The program had been a useful tool, which had benefited over 81,000 people coming from 149 different countries. The Delegation congratulated the Organization on the training it provided to the people in academia and those working in intellectual property area, stating that Mexico had also benefited from these programs. In the context of developing countries, LDCs and countries in transition, the Delegation asked how WIPO's cooperation with IP offices helped achieve the goals of the Academy. Mexico had had the opportunity to host the summer courses for Latin America and the Caribbean, which had provided the opportunity to staff in regional IP offices to learn a great deal, which would help them boost their own capacity in dealing with various aspects of the IP system, internationally speaking. The Delegation noted with pleasure and satisfaction that all of this was to the credit of the Organization. It further noted that there had been difficulty in achieving some of the targets set under Strategic Goal IX, namely regarding effective administrative and financial support. The data in the report suggested that only 35 per cent of the goals had actually been achieved in this section. The Delegation further noted that the Human Resource Management Division had, unfortunately, only achieved 33 per cent of its targets. Consequently, the Delegation urged the Organization to improve the level of resources to identify challenges and strategies that could be adjusted so as to help better achieve the goals. This would be particularly important in the preparation of the Program and Budget for 2016/17. On the evaluation and assessment aspect, the Delegation expressed its appreciation of the validation exercise and it believed it was an excellent example of best practices within the UN System in accountability. It recognized the major progress, which had been made in WIPO in improving the results-based management framework, and at the same time, it agreed that it was necessary to improve the methodology to ensure that the programs would be in a position to measure and carry forward results rather than products or outputs. As indicated (in paragraph 82), 29 per cent of WIPO's programs still faced difficulties when it came to collating, analyzing and submitting appropriate and exhaustive data for the basis of Performance Indicators. The Delegation acknowledged the five IAOD recommendations and urged the Secretariat to implement them in the carrying out of the 2014/15 Program and Budget and, indeed, in preparing the Program and Budget for 2016/17. The Delegation had submitted a proposal for an amendment to the draft decision paragraph and had handed it to the Secretariat in writing.

312. The Delegation of Italy aligned itself with the statement made by the Delegation of Japan on behalf of Group B and thanked the Secretariat for reporting on the biennium 2012/13. It also praised the increased quality of the report and noted its satisfaction with the Performance Indicator ratings having been fully achieved, particularly those relating to WIPO activities in favor of SMEs. It further thanked the Secretariat for reporting on the cost efficiency measures and called on the Secretariat to continue the good practice of reporting on efficiency measures and renewing efforts in trying to quantify the savings achieved in 2014/15. As for the specific measures introduced in 2012/13, the Delegation particularly appreciated the cooperation with other United Nations organizations in the procurement of the goods and services. It encouraged the Secretariat to continue along that path. Finally, with reference to the validation report of the PPR, it welcomed the progress achieved in the improvement of the accountability for results of the Organization and encouraged the Secretariat with regard to the results-based management process to take fully into account the recommendations included in the IAOD validation report.

313. The Delegation of Canada endorsed the statement made the previous day by the Delegation of Japan on behalf of Group B and extended its thanks to the Secretariat for having prepared the PPR and to the IAOD for its validation report. It noted the conclusions of the report, according to which 72 per cent of goals had been fully achieved in the course of the reporting period. It further noted, however, that the information provided by the IAOD in its validation report highlighted certain difficulties with implementation and with irrelevance of the some data. At the same time, the Delegation noted that there was significant improvement on the period 2010/11, which was welcomed. The Delegation also welcomed the considerable improvements, which had been made on the presentation of performance data, particularly

following the comments made by Member States at the last year's PBC. It expressed its belief that the improvements made had greatly enhanced the quality of the report as part of results-based program implementation. The Delegation attached great importance to the presentation of good quality reports and urged the Secretariat to continue to make such improvements, particularly in line with the five recommendations made by the IAOD.

314. The Delegation of Japan, speaking in its national capacity, thanked the Secretariat for their hard work in preparing the document. It noted that according to the PPR 2012/13, out of the 299 Performance Indicators, 215 indicators (or 72 per cent) had been assessed as fully achieved. In addition, it noted that this year's PPR included biennium performance data for each of the nine strategic goals for first time. The Delegation was pleased to see the hard efforts made by the Secretariat to implement the programs. However, it pointed out that the PPR 2012/13, when compared to the PPR 2012, in which it had been stated that 80 per cent of the items assessed had been on track, showed that the number of satisfactory results had decreased. Therefore, the Delegation wanted to know whether there were any special reasons for the decrease. It further noted that with regard to the performance indicators assessed as partially achieved, or not achieved, it would be necessary for the Secretariat to appropriately address them when implementing the Program and Budget for the current biennium. The Delegation was of the view that the PPR should clearly indicate the reasons why these indicators had not been fully achieved and forge a strategy to mitigate this situation. In particular, the Delegation expressed its interest in indicators that were directly linked with global IP services, for example the percentage of registrations, compared to the total number of applications received in Program 6. The Delegation stressed that it did not intend to micromanage the Secretariat's work, but, at the same time, it strongly hoped that meaningful measures had been adopted to mitigate the issues and that they had been appropriately reflected in the Program and Budget for the current biennium. As for the cost efficiency measures, the Delegation noted its appreciation for the great efforts made by the Secretariat to make its administration more efficient, considering that more than 10.2 million Swiss francs in cost savings had been accomplished during this biennium. The Delegation felt that WIPO could do more in terms of reducing both the number of working documents and the pages that were given as handouts at the WIPO meetings. While it appreciated the Secretariat's work in adding executive summaries to working documents when appropriate, the Delegation hoped that the Secretariat would be able to reduce the volume of working documents, which would eventually lead to reducing the workload on Member States and the costs for WIPO. It reiterated that cost efficiency measures should be continuously implemented in sustainable manner, taking into account the necessity for further cost savings. As for the IAOD validation report on the PPR 2012/13, the Delegation was pleased to see that the significant improvement could be seen compared to the previous biennium. However, it noted that there was still room for improvement, as described in the document. Therefore, the Delegation would like the Secretariat to conduct even further refined program management by implementing all the recommendations made by the IAOD. Finally, the Delegation pointed out some factual errors in the PPR regarding the activities of Japan Funds-in-Trust. It said that it would submit a revised text to reflect the correction.

315. The Delegation of Brazil thanked the Secretariat for the preparation of the PPR 2012/13 and the related documents. The Delegation wished to make some general and specific comments regarding the content of the report, always bearing in mind that it was self-assessment exercise, and therefore, did not necessarily reflect the positions and views of Member States regarding the implementation of WIPO programs. In general, it noted that the PPR reflected the continuous progress made on the implementation of the DA and that each program had made its own assessment of how it contributed to the implementation of the 45 recommendations of the DA. The content made it clear, however, that it was an ongoing process, and not an activity already completed. In that regard, the Delegation questioned whether paragraph 8.2 (Program 8) accurately reflected the progress achieved in implementation of the DA in the biennium. The Delegation agreed that good progress had been made on some projects and initiatives, as reported in the same paragraph. Nonetheless, since

fundamental issues were at an impasse, such as the full implementation of the coordination mechanism and the third pillar of the CDIP's mandate, it seemed that much more needed to be done with a view to achieving substantial progress in this area. In Program 3, the Delegation noted with great satisfaction that good progress had been made in the copyright field. The adoption of two new treaties in the biennium illustrated that WIPO was capable of addressing Member States' interests in a balanced and positive way. It expressed its hope that similar outcomes could be achieved in the current biennium. With that in mind, it noted that it was regrettable that the last two sessions of SSCR failed to conclude its work. The Delegation commented that the Marrakesh and the Beijing Treaties should be used as a reminder of what Member States were able to do when they truly engaged in constructive collaboration. In reference to Program 15, Business Solutions for IP Offices, it recalled that in previous sessions of the PBC, Brazil and other Latin American countries had highlighted the importance of the IPAS program for many patent offices in that region, and had expressed their need to have access to the source code of the software developed by WIPO. The Delegation thanked the Secretariat for its efforts to clarify the concerns and the questions raised by its Patent Office in that regard and noted that it was still examining the issue with attention and seeking a solution that would meet the needs of the offices that use that resource. Concerning Program 18, the Delegation welcomed the reports presented at the last sessions of the SCP and the CDIP and reiterated that it should become a regular practice. This would allow Member States to better understand activities undertaken by the Program since it was not included in the agenda of WIPO intergovernmental bodies and therefore did not have a mandate approved by Member States. It also recalled that the issues dealt with in Program 18 were also discussed in other international fora and, therefore, the work done by the Program should not interfere in the work done in said fora nor duplicate their efforts. The Delegation requested more details on how the WIPO Re:Search was promoting effective technology and innovation transfer to the research on neglected tropical diseases, tuberculosis and malaria (as stated in paragraph 18.5.).

316. The Delegation of Chile endorsed the statement made by the GRULAC coordinator and extended its congratulations to the Chair and Vice-Chairs. It also thanked the Secretariat for the reports and related documents provided and expressed its gratitude for the presentations that had been made thus far. It noted that the reports had provided a fuller and much clearer picture of the work done in the Organization, and expressed particular thanks for the PPR 2012/13. On that report, the Delegation sought one or two points of clarification. First, on Program 15, Business Solutions for IP Offices, it sought a more specific breakdown on the distribution of funds associated to each Intellectual Property Administration System (IPAS). The PPR provided an idea of the goals on updating of intellectual property administration systems, including the computerization of IPAS. However, the document did not provide any specific information or detailed breakdown of information associated with each platform. The Delegation stated that if a more detailed analysis of the budgetary impact under this item were made, it would be necessary to have a more specific or detailed breakdown of the output and the set goals for each technological platform, particularly for IPAS. It expressed its belief that such a breakdown would help to ensure that future work take into account annual planning cycles. It further noted that the correct function of the IPAS system, particularly the financing of technical assistance, was essential for the efficiency and the effectiveness of the offices using the platform, in the case of Chile, the National Institute for Industrial Property. Availability of funds through the budget for technical assistance would therefore be of crucial importance to ensure that the work could continue in the future. Furthermore, turning to Program 3, Copyright and Related Rights, the Delegation noted that there were three areas of work, (i) normative or standard setting, (ii) strengthening copyright infrastructure development, and last but not least (iii) improving institutional and human capacity in developing countries and LDCs. As had been stated earlier by the Delegation of Mexico and Brazil, the Delegation welcomed what had been achieved on the normative or the standard setting aspect. In regard to strengthening the development of copyright infrastructure, the report stated that WIPO had decided to maintain support to the copyright management system and also that WIPO had decided to increase the use of external experts. However, the Delegation noted that its country had received official communications from the Organization, notifying the country of a decision to suspend technical

assistance to this system starting next year. The Delegation, therefore, sought further information about the apparent decision to suspend the service and noted that suspending technical assistance work for the 18 copyright offices that used the particular system did not seem to be consistent with the recent expansion of the number of offices, which had moved to the platform and were now reliant on it for their operations. In addition, the Delegation emphasized that the communication that it had received about the suspension of technical support was something that could constitute a threat to the correct operations of the offices currently using the system. The Delegation therefore urged that WIPO look at the possibility of extending technical support for this platform. Lastly, and on the points expressed by the Delegation of the United States of America on the System under Program 6, the Delegation noted that what had been said about Article 9.(2)(b) of the Lisbon Agreement was particularly relevant and that due consideration needed to be given to the appropriate application of this provision. Furthermore, it was of the opinion that, generally speaking, the proposals for greater specificity about the way in which the results were presented would provide greater clarity to the data, which was something that was, of course, always welcome. It noted that there was an ongoing international dialogue about the issues, particularly, about the relationship between GIs, trademarks and AOs. The Delegation expressed its belief that it was essential to bear the situation in mind in the work to be done and the progress to be made in WIPO as part of this ongoing international dialogue.

317. The Delegation of Australia thanked the Secretariat for the PPR and welcomed the good level of achievement. It expressed its appreciation of the Secretariat's efforts in finding further savings through cost efficiencies and welcomed the improved presentation of the report. The Delegation supported WIPO's central role in creating new international norms for intellectual property. Broad and inclusive international norms increased certainty and decreased costs in today's increasingly global markets. It also noted the progress in negotiations on the potential Design Law Treaty and the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. All delegations had participated in these fora with commitment and in good faith. The Delegation stated that Australia had recently signed the Marrakesh Treaty further demonstrating its support for the development of international norms within WIPO. It was pleased to be part of WIPO's Funds-in-Trust program and proud of its contributions to activities that had improved IP systems in developing countries and LDCs. It expressed appreciation for the information provided in Appendix II (on WIPO FITs), which would reduce duplication of activities. While not a part in the Lisbon System, the Delegation said that it had been participating actively and constructively in the Working Group's meetings, with the observer status, and added that any revision of the Lisbon Agreement should not merely replicate the existing system and attempt to institutionalize an approach that had made the system unattractive to many. It recalled that the mandate of the group included making the Agreement more attractive to prospective members while preserving its principles and objectives. The two goals should not be mutually exclusive. It referred to the successful diplomatic conference in Marrakesh, at which the key to success had been an open discussion, on an equal footing, between participants from all sides of the debate. Any diplomatic conference for the revision of the Lisbon Agreement would require a similar spirit of openness and equality. At the very least, WIPO Member States and observers should have equal rights as the Lisbon Member States with respect to any diplomatic conference proceedings, and all issues should be on the table.

318. The Delegation of France thanked the Secretariat for the quality of the documents. In response to the comments previously been made on some of the aspects dealing with the Lisbon System, the Delegation recalled, in defense of the Secretariat, that the nomenclature in the PPR had been voted and decided on by Member States at the Assemblies, the highest decision-making body, and that it was coming from the Program and Budget, whether for 2012/13 or for 2014/15, also adopted by the same Member States. The Delegation commented that any debate or changes should have been done at that point in time and noted that different proposals/solutions could be implemented in the future biennia, e.g. 2016/17. It recalled that the PBC could not change the nomenclature overnight and that decisions voted on by the

Assemblies could not be overturned. It further recalled that the 2014/15 Program and Budget provided for convening a diplomatic conference and the funds had been set aside. From a formal point of view, the decision had been made. In response to delegations that had concerns that some States had made agreements beforehand, the Delegation assured those States that there was no intention of excluding anyone and invited all delegations participate and work on the issue. The Delegation admitted that the Lisbon System exhibited financial weakness. The Union would meet and discuss that in September. Various proposals had been made in order to increase accessions. There was also a proposal for gradual increase of registration fees. It added that comments made by delegations during the relevant meetings had been heard, but it should not be forgotten that Lisbon System was not an international organization. WIPO was such organization and one should also bear in mind that 75 per cent WIPO's income came from the PCT. It would be wrong to deny the benefits of the PCT revenue to other programs. There was some wiggle room but Member States needed to give themselves the wherewithal and be responsible on the issue. Also, there were sectors of the Organization with what the Delegation called *geometries variables* and the Delegation hoped that those different models could coexist in WIPO. WIPO was a rich organization, in a sense that it had a wealth of Member States, with many long histories, various traditions and territories. The different models offered by WIPO was what had brought all of the States together. It added that observers were also invited to take part in the debate. The Delegation noted that it was not trying to level out all systems. Everyone should feel comfortable with the different statuses of the different systems, and the Delegation hoped that this philosophy could be shared and understood. The Delegation concluded by saying that it was not trying to apply blanket coverage to all.

319. The Delegation of Spain aligned its position with the Group B statement and expressed its satisfaction with the PPR and its appreciation for the professionalism of the Secretariat. The Delegation commended the Secretariat for achieving efficiency gains. The Delegation believed that substantial savings had been made and that had increased the efficiency of the Organization. There was an increase in the reserves and an increase in funds for programs and activities. The Delegation was pleased to see all the activities that the Secretariat had undertaken. It urged the Secretariat to continue those efforts and practices. The Delegation thought that it would be beneficial to include indicators, under savings and efficiencies, that would enable Member States to see the evolution of the different savings and efficiencies made: for example, a comparison between two years would show if there was a relationship between the use of the reserve funds and the savings that might have been made over a biennium. The Delegation requested the Secretariat to pay close attention to the accounting of the different savings in their reports. For example, the building fund, which the delegation did not consider either saving or efficiency, should not come under that category. Under this section, travel was an important item and WIPO's practices should be aligned with those of the UN family. The Delegation expressed its concerns with regard to delays in the application of the transition period and hoped that such periods would be as brief as possible. On the matter of savings, the Delegation noted that they had been made in many different areas, e.g. contracts, printing and translation outsourcing and was grateful for those. Commenting on savings in the human resources area, the Delegation was saddened to see that saving had only been made with regard to interns, which meant that young people were the ones who had been affected. With regard to WIPO's relationship within the UN family, the Delegation noted the continuing dialogue and efforts made in order to ensure that the common systems was used. It wished to encourage the Secretariat to continue that dialogue with all the specialized agencies. Referring to Program 23, the Delegation encouraged the Secretariat to continue their efforts in trying to reduce absenteeism. Under Program 24, the Delegation asked the Secretariat to attempt to determine a benchmark, or an indicator, that would enable Member States to see what travel savings would have been made. With regard to conference and language services, The Delegation considered the reduction of costs for page of translation very positive and thought that these significant savings enabled the increase of language coverage to other committees. Finally, the previous year, the Delegation had asked if it would have been possible to have an indicator with regard to compliance, to see whether or not it was possible to ensure the

availability of documents in all languages two months prior to meetings. The Delegation inquired whether this was introduced in the PPR.

320. The Delegation of Germany thanked the Secretariat for the PPR document and wished to comment on Programs 1, 2, 5 and 17. Program 1 (Patent Law): the Delegation considered patent-related flexibilities to be a topic to be dealt with in the SCP. It should not be dealt with in two different committees to avoid the duplication of work. Program 2 (Trademarks, Industrial Designs and Geographical Indications): The Delegation failed to see how the convening of a diplomatic conference on the DLT had been “partially achieved”. It asked how one “partially achieved” a diplomatic conference. The delegation continued to be in favor of having a diplomatic conference on the DLT as soon as possible. However, at the same time, it noted that the substance of the proposed treaty had been watered down to the point where it was not clear whether the aim was a treaty or a set of recommendations. The Delegation considered this to be an important topic but, despite being in favor of the conference, it would not like to see more discussion on in the committee. Since there was no agreement on a diplomatic conference, the Delegation thought that consideration should be given to freezing the negotiations on the DLT. Program 5 (PCT System): the delegation was critical of the reduction of fees for SMEs and universities, and noted that the reduction of fees for SMEs was not pursued further. Should any efforts be made to reduce the fees for universities that should be done in a budget-neutral manner. Program 17 (Building Respect for IP): the Delegation was very pleased that the PPR noted and stressed the role of the ACE as a forum for constructive exchange of experiences, which respected the impression of many delegations after the last session of the committee in March 2014.

321. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Secretariat for the two documents (PPR and the validation report). The Group noted the progress made in performance ratings, i.e., 72 per cent of goals were achieved. Those results were validated by the IAOD report, which indicated an improvement in the number of programs collecting and submitting data related to the 2012/13 biennium Performance Indicators. With regard to the international framework for IP, it would be important to introduce measures taking into consideration the needs of the countries. This was critical as the quantitative indicators might not necessarily capture the qualitative aspects, which were more critical than the hard numbers. It would therefore be important for the program concerned to take the necessary measures to address this shortcoming.

322. The Delegation of Hungary thanked the Secretariat for preparing the PPR for 2012/13. The Delegation made the following observations regarding Program 6. First, the delegation noted with satisfaction the considerable progress made in respect of the operation of the Madrid and Lisbon Systems. On the other hand, the Delegation wished to react to the interventions made by other delegations. A suggestion had been made that the respective performance data related to the Madrid and the Lisbon Systems be split in the PPR. The delegation had strong concerns regarding this request. In its view, such amendment could not and should not be made since the PPR for 2012/13 had to follow the structure of the approved 2012/13 Program and Budget. The Delegation reminded Member States that those requests (regarding Program 6) had not been raised during the discussions on the proposed Program and Budget 2012/13. Implementing this idea would raise the question whether other performance indicators (linked to the budgetary approval) would be affected and modified. Reference had been made to the deficit generated by the Lisbon System. Yes, there was a deficit but one could easily observe that this deficit was related to the work done by the Working Group on the development of the Lisbon System, in order to fulfill the clear mandate given by the Lisbon Union Assembly. In 2008, the Lisbon Union Assembly had established a Working Group and mandated it with a full review of the Lisbon System aimed at making the system more attractive for users and prospective new members. It was obvious that such an enormous work, aimed at revising the entire legal framework, needed additional costs, which related mostly to holding the sessions of the Working Group (see document LI/WG/DEV/9/6). It had to be borne in mind that the handling of the increased costs generated by the work of the Working Group had not been a



precondition of the revision of the Lisbon System. It was also well known that the income of the Lisbon System was not enough to maintain national registration service. In the Delegation's view, a very cautious approach was needed when analyzing the cost efficiency and the possible self-financing the Lisbon System. The financial sustainability of this System could not be compared to other global registration systems, such as the Madrid System or the PCT, since the maintenance or the renewal fees had a radically different purpose in the latter. One should also remember the appellations of origin. Unlike in other registration systems there would never be a continuous flow of new applications in respect of geographical indications (GIs) and the appellations of origin. The mandate of the Lisbon Working Group was clear. The revision of the Lisbon agreement would result in a single instrument covering both appellations of origin and the GIs and provide for a single high level protection for both. The new instrument would establish a single international register covering both appellations of origin and the GIs and competent intergovernmental organizations would be given the possibility of joining the system. In 2013, the Lisbon Union Assembly approved the convening of a diplomatic conference for the adoption of a revised Lisbon Agreement in 2015. The financial resources needed for this diplomatic conference were allocated in the approved 2014/15 budget. The Delegation was of the opinion that the decision made by the Assembly of the Lisbon Union on convening the diplomatic conference could not be questioned at the PBC.

323. The Secretariat thanked the delegations who had so actively engaged in the PPR dialogue. The Secretariat valued such performance dialogue because the principal objective of strengthening the results-based management was to learn from the experience and to bring in those lessons to the next planning and implementation cycle. A number of observations was made and many questions were raised. In responding to them, the Secretariat would go from the generic to the more specific. The more detailed program-specific answers would be provided by the program managers concerned at the end.

324. The Secretariat thanked all the delegations for the positive acknowledgment of the improvement made to the PPR, and that providing Member States with a macro view had been much appreciated, since the first part of the PPR was an enhancement over the previous versions. The Secretariat welcomed the suggestions on the improvement of the results framework for several programs, e.g. Programs 6 and 10. These suggestions would be taken duly into account for the preparation of the 2016/17 Program and Budget, as well as for a better measurement of performance in those programs. It also welcomed the suggestions for improving the information in future reports, providing better analysis of reasons, why targets were not met or were partially met, as well as inclusion of indicators for cost efficiencies. The Secretariat, with its efforts to implement the ERP system, would be much better equipped in the years/months to come to provide this kind of information and to track it. The Secretariat assured Member States that for those results that had not been fully achieved, the appropriate lessons were being identified in collaboration with the program managers and these would inform the next planning cycle as well as the current implementation cycle. As regards the specific question raised by the Delegation of the United States on the budget and expenditure figures of Program 6, the difference between the figures referred to in the consolidated table in section 3 of the report, and the figures referred to in Program 6, stemmed from the fact that in addition to Program 6, Program 20 also went to Expected Results II.8, which was the better use of Madrid and Lisbon Systems, including by developing countries and LDCs. The Secretariat would be happy to share the details with the Delegation of the United States, on a bilateral basis, and provide detailed explanations. Concerning the questions raised by the Delegation of the United States on Program 30, the detailed information regarding the approved budget, the budget after transfers, and actual expenditure of the Program in 2012/13, were set out on pages 127 and 128 of the report, together with detailed explanatory notes (paragraphs 30.9 to 30.11). Changing the name of the sector was primarily an organizational structure and communication aspect and did not therefore affect the work or the content of the Program as approved by Member States in the Program and Budget 2014/15. Recognizing that the volume of documents was very big, the Secretariat had prepared a proposal, to be discussed late in the session, on how to streamline performance and financial reporting (which might require a more

detailed survey of Member States) and the mode of access to information. In today's digital age, much more information could be available online. The Delegation of Japan requested clarification on the reasons why the previous PPR reported more than 80 per cent of the indicators being on track whereas the PPR 2012/13 showed a lower level of achievement, i.e., 72 per cent. The Secretariat recalled that the present PPR was a biennial report, covering the first year (where progress could be on track) and the second year (where it could either be on track or not on track), including external factors that influenced the program implementation. 80 per cent had been the assessment at the end of 2012, but based on the completion of the cycle, including 2013, the actual reporting showed the final situation at the end of the biennium (72 per cent). It was quite normal that the full biennial report would have variances with the mid-biennium report. The Secretariat assured Member States of the importance it attached to the IAOD validation report of the PPR. As in the past, the Secretariat would ensure that all the recommendations were fully implemented. However, in context of the previous days' discussion on open recommendations, one would need to bear in mind that these recommendations would only be closed two years from now. So when the next PPR would be presented, and the IAOD conducted the validation of that report, that was when these recommendations would be closed. Therefore, they would remain open until that point in time.

325. Another member of the Secretariat responded to the request for clarification by the Delegation of Brazil on WIPO Re:Search. The Secretariat explained that WIPO Re:Search was an innovative way of development cooperation, in the sense that it was a multi-stakeholder project or instrument, in which WIPO acted merely as a catalyst. The consortium currently had 86 members from all over the world, from the developed as well as developing countries. Out of these 86 members 55 were providers. They provided all sorts of relevant information that could be used to boost innovation in the area of neglected tropical diseases, tuberculosis and malaria. Currently, there were 182 contributions to a database, operated in WIPO. These contributions included patents and also offered more general type of information, e.g. test data, whole compound libraries and anything that could help boost innovation in the neglected tropical diseases, tuberculosis and malaria. These contributions were relevant, but they were not the only source of collaborations. At present, there were 66 research collaborations which had been sponsored by research institutions and providers. They involved both north-north, north-south, as well as some south-south collaborations. There was an NGO specializing in this type of collaboration, called BIO Ventures for Global Health, based in Seattle. This was a short summary what WIPO Re:Search had achieved to date. In addition, there had been five hosting arrangements, funded from the FIT sponsored by Australia, in which researchers from Cameroon, Nigeria and other countries could conduct research in research laboratories in India, Switzerland and United States of America. WIPO Re:Search could also be used as a targeted window into other WIPO capacity-building activities. In that sense, WIPO had provided targeted training programs for African researchers on at least two occasions already, one in Capetown, and one in Geneva on the occasion of an annual meeting in 2012. Currently, another training workshop for researchers of developing countries was planned, tentatively planned for November of this year. WIPO Re:search was a good product and the Secretariat could only encourage Member States to encourage their institutions or companies to participate actively in WIPO Re:Search because it was also based on economics of scale - the more there of them were, the more relevant and the more powerful the system would become. The Secretariat thanked member States for their support, and also wished to thank the colleagues who were running the system and spending a lot of time and effort in doing so.

326. Another member of the Secretariat responded to the questions related to the IT platform. First of all, the Secretariat thanked Member States for their strong interest in supporting the IPAS system in other platforms, under Program 15. The Secretariat had been expanding these IT platforms quite extensively, essentially developing countries, over the last four years and had noted that there was strong interest in them in all corners of the world. IPAS expanded to 64 countries during the PPR reporting period (almost 40 per cent increase). The Secretariat pointed out that it was challenging to cope with the sharp increase, as the resources allocated during the last biennium had been very tight to cover the number of countries which had

demanded deployment of this platform. Therefore, the Secretariat fully understood that some countries had felt a shortage of support or the funds. The Secretariat had identified the mismatch, the imbalance and the contribution of resources during the course of implementation in the last biennium and had already started to rectify this imbalance through the establishment of a centralized support system at Geneva, including regional experts. For example, in the case of Latin America, the number of users had risen from 10 countries to 14 countries, and one regional expert had been provided. The Secretariat would continue to readjust the contribution and the allocation of resources necessary for the support and the deployment of IPAS as it continued to evolve in coming years. The secretariat would be happy to discuss the level of resources during the next biennium. Having said that, if one looked at the performance indicators and performance criteria, the number of intellectual property offices using the IT platforms was the first primary indicator. The Secretariat was very keen on the degree of satisfaction on the part of the users, the IP offices, and the level of support from WIPO. Therefore, the Secretariat would look into the level of support during this and the next biennium, so that performance indicators consider the level of the satisfaction and the support of WIPO to those users. New platforms would continue to be developed, which meant that increase in support requests that would need to be delivered despite the constraints of resources. The Secretariat would deliver more with less resources. The Secretariat needed to consult with Member States and users of the platform on how the level of support could be enhanced despite limited resources. The Secretariat had already consulted Member States, on a region-by-region basis, and would continue to do so. In Latin America, consultations took place in Costa Rica and Ecuador. These consultations should be able to allow the International Bureau and users of the platform to put forward better support system.

327. Another member of the Secretariat responded to the question from the Delegation of Chile regarding Program 3 and the system in a number of Latin America countries of the voluntary registration. The answer was “yes”, the Secretariat had considered the representation made from a number of the Latin American countries and had agreed to extend the support.

328. The Delegation of the United States of America thanked the Secretariat for its comments in response to the Delegation’s observations on Program 6. The Delegation understood the point that many delegations had made with respect to the changes that were being sought under the PPR. However, the Delegation strongly recalled that it had made these comments before, particularly at the December 2013 Extraordinary General Assembly, when it had expressed its concerns regarding the Madrid and Lisbon Systems being clumped together. This made it very difficult for Member States to assess and analyze the performance of the data with respect to these two systems. The Delegation wished to make a plea again. To help Members remember that plea, the Delegation wondered whether new language could be inserted in the decision paragraph to ensure that the Secretariat would continue in its improvements concerning the performance data and results framework based on the suggestions made concerning the 2012/13 PPR, and this would affect, or be relevant, for the next PPR cycle and for the 2016/17 biennium. The Delegation also expressed its concerns and objections regarding the procedures followed for the diplomatic conference for the Lisbon Agreement. That issue had also already been raised in December 2013 at the extraordinary Assemblies meeting. For clarity and completeness, the Delegation wished to have its objection noted in the PPR.

329. The Delegation of Algeria wished to comments on Programs 9 and 30. In particular, it asked for a correction of a factual error in the performance data column in the table for Program 9. The table indicated that a national strategy on IP innovation had been adopted in Algeria, but actually, it had been only submitted to the Algerian government for adoption, which had not taken place yet. The Delegation also requested further information from the Secretariat on the way in which Program 9 coordinated the implementation of its activities with other programs, i.e., how the manager of Program 9 managed the coordination with the other divisions. The Delegation was under the impression that, sometimes, there was a little bit of duplication and, at other times, a slight lack of communication. It requested more detail on how

the coordination was actually handled. Regarding Program 30, and particularly the program to set up the transfer of technology offices, the Delegation said that, according to the Secretariat, the establishment of transfer of technology offices was a goal that had been fully achieved. The Delegation was not sure whether that was correct because as far as the Arab region was concerned, at least, there should have been five projects for the establishment of transfer of technology offices. At the moment, activities had been launched in one country and, even there, the office had not been set up. Some Arab countries were even further behind, still waiting for the project to be launched. The Delegation therefore considered that this goal had not been even partially achieved in the Arab countries. The Delegation requested further information on that point.

330. The Delegation of Japan thanked the Secretariat for its comprehensive and well-structured answers to the questions posed by Member States and was very pleased to hear that the PPR would evolve, taking account of what had been said in the Group B statement. The Delegation was also pleased to hear from the Deputy Director General, Mr. Wichard about the good results achieved in this biennium. Regarding Program 18, the Delegation believed that continuing briefings and explanations in the context of the PBC would be a good way forward. It recalled that one short briefing was done in the context of the CDIP. The Delegation wished to put it on record that briefings on Program 18 should be continuously done in the framework of the PBC. The Delegation also wished to thank the Secretariat for its comprehensive and informative answer to the Delegation's question.

331. The Delegation of Chile thanked the Secretariat for the information provided to the Delegation's questions on IPAS system and added that this information would be very much welcomed by the national offices.

332. The Secretariat confirmed that it would make the factual correction requested by the Delegations of Japan (FITs) and Algeria (Program 9)

333. The Delegation of Brazil thanked the Secretariat for providing additional information on IPAS and reiterated that it considered IAPS a very important program. It added that it was engaging with the Secretariat to find ways to have access to the source code, which would make it easier and more feasible to enjoy the benefits of this program.

334. The Secretariat responded to the question on how Program 9 coordinated its work with the other programs, explaining that the bureaus held the master plan for the program for developing countries. Essentially, this meant that the bureaus were responsible for elaborating, with the Member States, the IP strategies and the national plans for the various Member States, and overseeing the activities that had to be undertaken in the context of implementing those various activities required for putting in place of appropriate strategies. Throughout the Organization, different sectors had specific expertise in particular areas. Also, the Organization was a demand driven organization. Therefore, as requests of the developing countries were received, the bureau was charged with coordinating the internal action to address those requests. For instance, in the case of technology information support centers, the bureau would engage with the relevant program(s) that was responsible for that and together, the Secretariat would coordinate the response of the Organization. Very often, it would be a process and the bureau would essentially monitor the process, in particular, to make sure that the input of the Secretariat responded to and was coherent with the IP strategies of the particular country. This was how Program 9 carried out internal coordination. In terms of communication, the bureaus were the focal point for the exchange of communication, and would be aware of all developments and would be responsible for communicating that to the relevant sectors and meeting with the relevant sectors to respond to the communication. The Secretariat then responded to the comment on the partially achieved objectives of the national strategy on innovation (with respect to Algeria). It agreed that this had not yet been approved by the ministerial committee. The PPR reflected it as being "partially achieved" because the national coordinating committee had endorsed and approved the project, although at the political level, it

had not yet been submitted to, or approved by the council of ministers. However, the Secretariat noted the point made by the Delegation of Algeria that as far as they were concerned, it had not yet been fully achieved.

335. The Delegation of Algeria thanked the Secretariat for the clarification. The Delegation also added that the coordination of work within Program 9 was now better understood as well and called for improved coordination, so that delegations would know who they should be turning to when they sought answers to their concerns.

336. Another member of the Secretariat replied to the question regarding Program 30 and the establishment of technology transfer offices (TTOs). The performance indicator spoke of developing IP framework and establishing TTOs. The target was eight TTOs. The interpretation of this performance indicator had to do with either the establishment or the improvement or the advice or facilitation of establishing TTOs. And that was how it was interpreted, because WIPO was not in the business of establishing TTOs, but it facilitated that. The PPR talked about the various TTOs that WIPO had facilitated and advised upon, not just in the Arab region, but also in Chile, Georgia, Ghana and in West Asia. Therefore, in terms of facilitation and the advice that WIPO had given, indeed, this performance indicator had been met. Regarding the TTOs for the Arab states projects, there had been some challenges, not the least of which was the funding, to go past phases one and two. That had been worked upon, and some of the plans had been revised and modified and proposed back to the countries so progress could be made in the TTOs for Arab states project, without waiting for funding for the entire program as originally conceived. The performance indicator was achieved as designed and interpreted. However, the Secretariat remained very interested and eager to work on TTOs for the Arab states (Algeria, Morocco, Jordan, and Tunisia) and was working with the Arab states to redefine those projects.

337. The Delegation of Algeria understood, on the basis of the Secretariat's explanation, that WIPO was not responsible for setting up the TTOs, however, it was a WIPO project. So, when the PPR said that the objective was fully achieved, it meant the objective of establishing the TTO, wherever it was. However, giving legal advice with regards to the TTOs was a different objective. Therefore, the Delegation requested the Secretariat to divide the indicators into those related to the legislative framework or training (that part of the objective was achieved) and those related establishing the TTOs (the part that could not be considered as achieved). The Delegation offered to work with the Secretariat in order to reformulate the indicators, which the States affected by the program might be misinterpreting.

338. The Chair read out the draft decision paragraph, with the addition of the text the Delegations of Mexico and the United States of America. *"The Program and the Budget Committee, having reviewed the comprehensive Program Performance Report (PPR) for the biennium 2012/13, and recognizing its nature as a self-assessment of the Secretariat, recommend that the Assemblies of the Member States of WIPO: (a) acknowledge Programs' contributions to the achievement of the expected results; (b) note the enhancements made to the report, in accordance with the request by Member States; (c) note that all recommendations of the IAOD Validation of the PPR for the biennium 2010/11 had been implemented by the Secretariat; (d) noting the statements made by Member States on the PPR, request the Secretariat to:"* – according to the text proposed by the Delegation of Mexico – *"(i) ensure the lessons learned from implementations in the 2012/13 biennium are duly taken into account for the implementation of the 2014/15 Program and Budget; (ii) develop an action plan with a defined timeline to address the five recommendations included in the IAOD Validation Report on the PPR for the 2012/13; (iii) continue its efforts to enhance its implementation of results based management, in particular its performance data, performance assessment, monitoring tools and related reporting."*

339. The Delegation of the United States of America States wished to see a new paragraph with its proposed text, reading: *"continue its efforts in its improvements concerning the*

*performance data and results framework based on the suggestions made by Member States concerning the 2012/13 PPR, which is to apply to the next PPR cycle and the 2016/17 program and budget.”*

340. The Director, IAOD thanked delegations for their positive comments on the PPR. In respect of the proposed sub-paragraph (ii) of the decision text and the request to develop an action plan with a defined timeline, the IAOD Director pointed out that such an action plan and the corresponding timetable already existed and were reproduced on page 34 of the Validation Report.

341. In view of this information, the Delegation of Mexico agreed to simplify the text of sub-paragraph (ii) to read: “*address the five recommendations etc...*”

342. The Delegation of Switzerland believed that the addition proposed by the Delegation of the United States of America, duplicated the existing text of the draft decision, given that it already indicated that the lessons learned and the comments from delegations had to be taken into account in the preparation of future PPRs. As for the reference to the 2016/17 budget, that would be discussed when Members deliberate on the draft 2016/17 budget proposal. In this respect, the Delegation wished to echo the comments made by the Delegation of France when it had spoken in reaction to the comments made by the United States' Delegation. Coming back to the draft decision, the Delegation did not think anything should be added to it. Finally, as concerns the United States' opposition to the diplomatic conference, the Delegation did not recall this objection being made when the decision had been taken. Written comments had been received afterwards. The Delegation reiterated that the decision text as read by the Chair was fine, including the last paragraph.

343. The Delegation of the United States of America appreciated the comment made by the Delegation of Switzerland concerning the decision paragraph. The Delegation's concern was that what was contained in the PPR was not satisfactory. Looking and sub-paragraphs (i) and (iii) (with respect to lessons learned and the implementation of results), the Delegation said that it had a very specific perspective on these issues and did not feel that it was reflected appropriately in the PPR. The Delegation realized full well that there was not an appetite to change the current PPR to reflect some of its comments with respect to separating the data and to having better metrics with respect to the Madrid and Lisbon Systems. The other suggestion had been to look at the next PPR implementation cycle and the next budgetary cycle. Understanding the concerns of the Delegation of Switzerland, the Delegation was willing to compromise but did not quite know how to do that with respect to the fact that the PPR contained information that did not reflect the reality concerning Lisbon. The Delegation was open to suggestions on how to address that, but it did not want the issue of its concerns lost.

344. The Delegation of Australia suggested that, given that there was some resistance to revising the PPR at this stage (which the Delegation understood the reasons for), the decision could ask that information be provided, supplementary to the PPR. Essentially it would be a request for more detailed information about the two programs (Madrid and Lisbon), which clearly differentiated between them.

345. The Delegation of Switzerland requested the Secretariat's assistance in drafting a compromise decision text, putting together the different elements without creating repetitions, but taking into account the points raised by the Delegation of the United States in respect of the 2016/17 Program and Budget.

346. The Chair seconded the Delegation's proposal and suggested that the Secretariat and the delegations concerned work on the new compromise wording. Further discussion on item 10 was adjourned.

347. The Chair re-opened discussion on the decision text for item 10 and referred to the revised text distributed earlier that morning. He summarized that the revised text incorporated

the different ideas under sub-paragraph (iii), which was the only one that had changed and which read: "continue its efforts to enhance its implementation of results-based management, in particular its performance data,, results frameworks, performance assessments, monitoring tools and related reporting based on the suggestions made by Member States concerning the 2012/13 PPR, and take those duly into account where relevant, in the next PPR cycle and the 2016/17 Program and Budget."

348. The Delegation of the United States of America supported the new wording of sub-paragraph (iii) and agreed with the decision paragraph. However, the Delegation wished to record that, pursuant to this decision paragraph, it expected the Secretariat to separate the two Systems (Madrid and Lisbon) for the next PPR cycle and for the 2016/17 Program and Budget. There also needed to be separate performance data and expected results for both systems. The Delegation noted its continuing concerns with respect to the launch of a Lisbon Diplomatic Conference, particularly with respect to the Lisbon Agreement being followed, and the question of it being followed under Article 92 B. The Delegation would continue to raise this concern at the upcoming CoCo meeting.

349. The following decision was adopted in respect of PPR 2012/13 (document WO/PBC/22/8).

350. The Program and Budget Committee (PBC), having reviewed the comprehensive Program Performance Report (PPR) for the biennium 2012/13 (document WO/PBC/22/8), and recognizing its nature as a self-assessment of the Secretariat, recommended that the Assemblies of the Member States of WIPO:

- (a) acknowledge Programs' contribution to the achievement of the expected results;
- (b) note the enhancements made to the report, in accordance with the requests by Member States;
- (c) note that all recommendations of the Internal Audit and Oversight Division (IAOD) Validation of the PPR for the biennium 2010/11 had been implemented by the Secretariat;
- (d) noting the statements made by Member States on the PPR, request the Secretariat to:
  - (i) ensure that lessons learned from implementation in the 2012/13 biennium are duly taken into account for the implementation of the 2014/15 Program and Budget;
  - (ii) address the five recommendations included in the IAOD Validation Report on the PPR for 2012/13; and,
  - (iii) continue its efforts to enhance its implementation of results based management, in particular its performance data, results frameworks, performance assessment, monitoring tools and related reporting, based on the suggestions made by Member States concerning the 2012/13 PPR, and take those duly into account, where relevant, in the next PPR cycle and the 2016/17 Program and Budget.

351. The Chair read out the proposed decision text for Internal Audit and Oversight Division (IAOD) Validation Report on the Program Performance Report for 2012/13 (document WO/PBC/22/9), which was adopted as follows.

352. The Program and Budget Committee took note of the IAOD Validation Report on the Program Performance Report for 2012/13 (document WO/PBC/22/9).

## **ITEM 12 FINANCIAL MANAGEMENT REPORT (FMR) FOR 2012/13**

353. Discussions were based on document WO/PBC/22/6.

354. The Chair opened the item explaining that the Financial Management Report (FMR) for the 2012/13 biennium provided the Organization's results for the period, by comparison with the budget and the financial position at the end of both 2012 and 2013, in accordance with IPSAS. He thanked the External Auditor's team for their presence and for the very fruitful discussion that had taken place with them.

355. The Secretariat explained that the FMR for 2012/13 was transmitted to the PBC in accordance with Regulation 6.7 of the Financial Regulations and Rules (FRR), which required that the FMR be transmitted to all interested Member States. The FMR showed the Organization's results for the 2012/13 biennium compared with the budget for the previous biennium. It also provided details of the Organization's financial performance during 2012/13 and its financial position at the end of both 2012 and 2013, in accordance with IPSAS. The Secretariat said that the overall budgetary expenditure for the 2012/13 biennium amounted to 611.8 million Swiss francs, representing a utilization rate of 94.5 per cent against the approved budget, adding that this demonstrated the successful efforts made by the Secretariat to reduce expenditure through cost efficiency measures. Actual income on the budgetary basis amounted to 680.7 million Swiss francs, representing an increase of 33.3 million Swiss francs or 5.1 per cent as compared to budgeted estimates. The Organization's healthy financial performance, added the Secretariat, was reflected in the results of the biennium. Specifically, a surplus of 68.9 million Swiss francs as compared to the budget was generated and expenditure against the amount allocated for reserves for various projects amounted to 45.3 million Swiss francs. IPSAS adjustments enabling WIPO's result on a budgetary basis to be aligned with its result in accordance with IPSAS amounted to 11 million Swiss francs and the overall result was, therefore, a surplus of 34.6 million Swiss francs for the biennium.

356. The Delegation of Japan, speaking on behalf of Group B, thanked the Secretariat for the preparation of the documents under review, adding that the document on the reserves could give more useful information to Member States in considering how reserves should be used. Although the Group appreciated the need to maintain the target for the level of reserves, it wished to reiterate its belief whereby the reserves should not be used to finance things which could be foreseen. From this perspective, the requirement to be met to use reserve in particular exceptional circumstances, said the Group, should be interpreted in a stricter manner as this would keep enough money for use in a critical situation which the Organization might come across in the future, thereby safeguarding the Organization. It added that the need to proceed cautiously should not be undermined given some important factors ahead, including long-term liabilities. Group B expected that the Secretariat would work on a comprehensive proposal on reserves and working capital funds that included target setting for net assets, liquidity considerations, as well as the management, use, and reporting of the available surplus at the appropriate level. It asked that the Group statement be included in the decision.

357. In the absence of further comments, the Chair read out the proposed decision paragraph, which was adopted.

358. The Program and Budget Committee recommended to the Assemblies of the Member States of WIPO to approve the Financial Management Report for the 2012/13 Biennium (document WO/PBC/22/6).

### **12(a) REVIEW OF WIPO'S FINANCIAL SITUATION AND ITS POLICIES RELATED TO RESERVES**

359. Discussions were based on document WO/PBC/22/28.



360. The Chair invited the Secretariat to present document WO/PBC/22/28, which was presented to facilitate the review by the Member States of WIPO's reserves and related policies.

361. The Secretariat explained that the document entitled "Review of WIPO's Financial Situation and its Policies Related to Reserves" had been prepared to facilitate a review, by the Member States, of WIPO's reserves and related policies. It added that WIPO derived a high portion of its income from fees from services and had a high exposure to changes in the global economy. In addition, the Organization was very dependent on a single product, namely the PCT. Reserves in WIPO were the net assets of the Organization, i.e., the difference between the total assets and total liabilities of the Organization. In order to mitigate the risks of income falling short of what was estimated, WIPO's Member States had decided that a minimum level of net assets must be maintained. This was the target level of reserves. At the end of 2013, WIPO's net assets amounted to 208.8 million Swiss francs, 84.1 million Swiss francs higher than the targeted reserve level. WIPO had consistently maintained its net assets above the reserve target level, in accordance with Member States' decision. This evolution of the reserves was set out in the annex to the document, as previously requested by several Member States. Furthermore, WIPO's Member States had retained the possibility to decide on the use of available reserves, i.e., those above the target level set by them. These decisions were guided by the policy on the utilization of reserves and were fully in compliance with the policy established in 2010. As the Director General had stated in his opening remarks, strengthening financial management was a key priority for the Organization. In this context, the document identified a number of opportunities. Firstly, there was a review of the target level of reserves, which had not been reviewed or updated since 1990. Secondly, there was a consideration of liquidity benchmarks and targets. WIPO's current policies did not address this. Thirdly, it was proposed to consider the External Auditor's recommendation for the creation of a separate reserve for financing projects and reporting on them. Fourthly, a review of the working capital fund, which had remained static and did not fully serve the original purpose for which Member States had established it, was proposed. The Secretariat added that it would welcome Member States' early reactions and guidance on these aspects so as to take them into consideration in reviewing and revising, as needed, the policy related to the reserves.

362. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, considered that an appropriate policy for reserve and working capital was very important for WIPO's financial stability. The Group considered that the recommendation presented in the document, which was supported by the opinion of the External Auditor, as well as the outline of the measures in question, should contribute to strengthening WIPO's financial stability. Consequently, the Delegation expressed its support for the decision proposal presented in the document.

363. The Delegation of Canada expressed its support for the statement made by the Delegation of Japan on behalf of Group B and thanked the Secretariat for its work in preparing and presenting the documents. The Delegation said it had a number of questions with regard to having a distinct reserve fund, different from the working capital fund, which would be for projects. It requested detailed information from the Secretariat with regard to the accounting advantages that might come with the establishment of this type of fund. Secondly, it wondered what the difference was between the current situation, where there was a Capital Master Plan without its own fund, as compared to having a different separate fund. The Delegation asked to be provided with information with regard to the consequences of the different reserve and financing projects on the Organization's liquidities. It also wished to know if a separate reserve would require a new injection of funds that would be added to the working capital funds and, if so, where they would come from. The Delegation said it would appreciate having any further information the Secretariat could give the Member States, so as to look into this issue further and be able to take a decision on the matter.

364. The Delegation of the United States of America expressed its support for the statement made by Group B on the policy related to the reserves. The Delegation congratulated the

Secretariat for requesting the PBC to submit a comprehensive policy proposal that included target setting for net assets, liquidity considerations, and the management, use, and reporting of the available surpluses above the target level, taking into consideration the Member States' comments, guidance, and the recommendations of the audit oversight bodies in this respect. The Delegation also welcomed the FMR for the 2012/13 biennium and commended WIPO for being one of the first UN agencies to implement IPSAS, which provided the Organization's financial transparency. With respect to the income budgetary lines for the Lisbon Union and the FMR, the Delegation expressed its satisfaction that the Lisbon Union had finally made a proposal to raise fees to improve its income-generating performance, adding that it was aware that this fee increase proposal would be discussed at the Lisbon Union Assembly later in the month. The Delegation went on to express its concerns on whether a one-time increase in the international registration fee, from 500 Swiss francs to 1,000 Swiss francs contained in the proposal, would be enough to address Lisbon's continuous deficit. It had understood that the anticipated new GI registrations could improve Lisbon's financial situation; however, this notion appeared to be more of a guess and less of a projection. It believed that a greater fee increase was required in order for the Lisbon System to be financially sustainable. The Delegation proposed that the Secretariat undertake a financial study to assess the fee schedule that would be necessary to cover the costs of the system so as to increase the accountability and transparency of the finances of the Lisbon System. It also considered that an alternative funding mechanism needed to be adopted, such as a return to Contracting Party contributions, as provided for in the Lisbon Agreement, or based on the percentage of applications of origin the Contracting Party had included on the register.

365. The Delegation of Spain thanked the Secretariat for the high quality of the document provided. It was particularly pleased to see that the document dealt with the reserves, integrated with other aspects from which they could not be separated, such as fiscal policy, investments, and so on, which the Delegation considered as being more than acceptable. The Delegation expressed its support of the statement by the Delegation of Japan on behalf of Group B. It added that the Delegation of Spain had always been concerned about reserves because they represented the security of organizations, and it continued to hold that point of view. It expressed its satisfaction at the fact that there had been a surplus over the last few years, adding that it was necessary to be particularly cautious about reserves when there were surpluses so as to cover those years which were not so positive. The Delegation went on to discuss the issue of long-term liabilities for which full funding had not yet been achieved, as was the case of the ASHI liability. It added that it gave its full support to the Secretariat's policy and the Organization's policy on reserves and said it supported this document, bearing in mind that it was based on the correct premises. The Delegation wished to discuss the special reserve for projects, considering that there may have been some misunderstanding in this area. The Delegation considered that there were global reserves which were the wealth of the Organization and that there may be a decision to fund a project under the reserves. In other words, a special fund would not be set up, and adaptations would be made after. In this case, the process should be the contrary to that having been presented since it would be the Member States who would make the decisions to have a project funded under the reserves, and the setting up of a special fund would be giving a signal that part of the reserves to be used in the future would already be allocated to an approved project. In other words, nothing would jeopardize the reserves, quite the reverse. Once a decision to fund a project from the reserves had been taken, the alarm would go off saying there were 100,000 in reserves, but that 20 of them have been allocated to the project. If this was the case (and the Delegation requested confirmation of their understanding of the situation), the Delegation said it had no objections, considering that this was a very good thing. However, what was different was whether the approach was to base the project on the reserves or fund it from the reserves. If the approach was the latter, the estimated cost of such projects should be made and the reserves should be subject to a greater supervisory control body.

366. The Delegation of Mexico said it found this exercise very relevant, particularly as regarded risk management strategy. It wished to point out that a change to the reserves policy would

have a strong impact on Member States' contributions. If this were the case, then the level of increase of the reserves should be programmed gradually and not immediately, said the Delegation, in accordance with paragraph 27. The Delegation was in favor of an exhaustive review of the policies related to reserves and funds in general, and wished to also see greater clarity as regarded the advantages of having specific reserves for special projects, in line with what had been said by the Delegation of Spain, as this would provide supervision and transparency. The Delegation considered that it was important, when reviewing these policies, to take into consideration the conditions that had to be met when funding projects from the reserves. In past sessions of the PBC, several members had questioned the present policy because they considered it too lax and flexible.

367. The Secretariat thanked all delegations for their encouragement in respect of the review of the policies on reserves. The Secretariat wished to make a couple of points. Firstly, it pointed out that, in preceding times, the Member States had decided to discontinue the use or the creation of a separate reserve fund for projects as this required the building up of liquidity that was not necessarily seen as financially prudent. This appeared to be one of the reasons for the discontinuation of the special reserve fund for IT and premises in the 1990s. Therefore, if a special reserve fund or a separate reserve fund had to be created in accordance with the auditor's recommendation, the Secretariat would have to look at the implications on liquidity bearing in mind, of course, that the need for this did not seem very high as the Organization was generating cash. As long as the reporting on net assets and the level of available reserves above this could be made very clearly, proposals for the use of the reserves could be made in the context of a very strict interpretation of the use of the reserves, which should be sufficient to allow the Member States to take decisions on projects. Concerning the Delegation of Spain's question on how the creation of reserves could be interpreted, the Secretariat pointed out that the graph under table 3 of the document showed the net assets which were analyzed in the perspective of the policy on reserves. The graphs, which were based on the decisions having been taken by the Member States concerning the target level of reserves, showed the amount that had already been approved for special projects and the available balance that could be used in the future subject to the approval, by the Member States, of new projects. The Secretariat said that all the decisions taken by the Member States had been fully in compliance with the reserves policy, but that after having listened to the various interventions on the subject, it considered that it would be an appropriate time to review the target levels since these target levels were set back in the '90s and had not been reviewed since. The Secretariat added that the previous External Auditors had recommended an increase in the target level of reserves from the current level of 18.5 per cent of biennial expenditure to 25 per cent of biennial expenditure. At the time, the Member States had not approved this increase, so the 18.5 per cent level, which covered approximately four months of projected biennial expenditure at any point in time, was maintained. The Secretariat therefore deemed it appropriate to review the target level of reserves, bearing in mind the point made by Mexico concerning the fact that this would have to be done in a gradual manner.

368. The Delegation of Spain asked for a clarification on whether the use of reserves followed the approval of a project funded by the reserves, in other words, when a proposition to set up a fund was made taking into account the overall reserves, was this a pluri-annual fund to which funds would be committed, that would go beyond that particular financial year? Which reserves were allocated to the project? Or was it the other way around with, firstly, the creation of special reserves followed by the decision on what such reserves would be allocated to.

369. The Secretariat underlined that, firstly, it was not proposing the creation of a separate reserve fund, but that this followed a recommendation made by the External Auditors, a recommendation that the Secretariat thought the Member States as well as the Secretariat itself needed to consider far more. This was why the Secretariat was proposing a review process before the question would be revisited the following year. Concerning the question of whether or not the available reserves were only used when a proposal was made to the Member States for their review and approval, the Secretariat confirmed that this was indeed the case and that

the review and approval process preceded the use of the funds for a given project. The Secretariat added that, subsequent to the approval by the Member States of a given project, the External Auditor asked that the relevant amount be moved from the accumulated surpluses and be placed in a separate reserve, i.e. this process intervened subsequent to the decision to create a separate reserve.

370. With reference to paragraphs 1 and 34 of the document, the Delegation of Canada requested clarification in respect of what exactly the nature of the review mentioned in these paragraphs would be and what document would be presented to the Member States.

371. The Secretariat pointed out that decision paragraph 34 had two parts to it. The first of these simply concerned the recognition, by the Member States, of the need for the review of the policy on the reserves and working capital funds. The second part of the decision paragraph requested the Secretariat to undertake the review and examination based on the guidance received in the course of the PBC meeting, including the External Auditor's recommendations and other relevant factors including the targets, the liquidity issues, and the management and use of reserves. So, said the Secretariat, this was just a two-step process.

372. The Delegation of Canada thanked the Secretariat for the explanations and further asked about the timelines that were being considered in respect of stages 1 and 2 and whether or not these had been taken into account and adopted by the Committee. The Delegation added that it would be useful to have an indication of the timeline since the review, if accepted by the Committee, would go ahead and, as pointed out by the Delegation of Mexico, should be done gradually.

373. The Secretariat said that, after having heard Member States' views, the next steps would be to analyze the aspects that it had already begun to analyze in the document under review and subsequently to revert with a proposal, ideally by the PBC September next year (taking into account the fact that there would be two PBCs next year, in June and in September, since it would be a budget year). This was the proposed timeline.

374. The Chair read out the proposed decision.

375. The Program and Budget Committee (PBC), having reviewed the Financial Position (Net Assets) of the Organization and its evolution:

- (i) recognized the need to undertake a review of the policies on Reserves and Working Capital Funds; and
- (ii) requested the Secretariat to submit to the PBC a comprehensive policy proposal that includes target setting for the Net Assets, liquidity considerations and the management, use and reporting of the available surpluses above the target level, taking into consideration the Member States' comments and guidance and the recommendations of Audit and Oversight bodies in this respect.

### **ITEM 13 ANNUAL REPORT ON HUMAN RESOURCES**

376. Discussions were based on document WO/PBC/22/11.

377. The Chair introduced this agenda item (Annual Report on Human Resources) related to Program 23 (Human Resources Management and Development), and invited the Director of the Human Resources Management Department (HRMD) to introduce document WO/PBC/22/11.

378. Before presenting the Annual Report on Human Resources, the Secretariat paid tribute to the good work and achievements of WIPO staff coming from 118 countries and bringing together an enormous diversity of expertise, experience, and energy towards the achievement

of WIPO's programs. The Secretariat then presented the Annual Report on Human Resources (annual report), stating that the Human Resources (HR) Strategy endorsed by the WIPO Coordination Committee (CoCo) in 2013 contained four objectives: firstly, to improve WIPO's responsiveness to evolving global IP needs through an agile and geographically diverse workforce; secondly, to position WIPO as a premier provider of global IP services; thirdly, to confirm WIPO as an employer of choice for international IP experts, other professionals and support staff; and lastly, to further improve organizational efficiency through effective harnessing of resources. In the annual report, an overview was provided in Section 1, followed by a snapshot of the workforce in Section 2. Section 3 was the largest part of the report and contained an update on the implementation of the HR Strategy. Other HR matters were discussed in Section 4 and the outlook examined in Sections 4 and 5. Section 6 dealt with matters normally brought before the WIPO CoCo. The annexes contained detailed HR statistics and information on geographical diversity between 2000 and 2014. The Annual Report of the Ethics Office was included as Annex 3. The Secretariat then addressed three items detailed in the annual report: geographical diversity, efficiency and reform. Geographical diversity had already been extensively discussed in 2013. Member States expressed a range of views in that regard, raising the question of instituting a formal system to replace the 1975 accord. Until that question was resolved, the Secretariat had made a commitment to recruit from as wide a geographical base as possible. To that end, work had been done with a number of regional groups to track qualified applicants. Seven professional posts had been advertised in targeted regions in two specific campaigns, one in 2013 and one in 2014, thereby significantly increasing the number of applications from those regions. Five candidates had been appointed from regions where increased representation was sought. This had been achieved while fully respecting the express request of Member States to recruit candidates on the basis of merit. There had also been direct consultations with some unrepresented or underrepresented Member States with the aim of improving the number of applications from these countries. More needed to be done in this regard and a special outreach event would be organized during the Assemblies, targeting unrepresented Member States to seek their specific help in getting information about their vacancies to qualified candidates in those Member States. There had been setbacks with regard to geographical diversity. Since 2010, WIPO had regularized a number of long-serving short-term employees each year under a program approved by the WIPO CoCo. After professional long-serving short-term staff, 72 per cent of long-serving short-term staff were from Western Europe. In 2014 alone, out of nine professionals recruited under that program, eight had Western European nationality. A positive development was that the long-serving short-term integration program was coming to an end, as only a very small number of cases remained to be dealt with. Nonetheless, there were other challenges. Turnover in WIPO continued to be low, with only some 14 staff in professional or higher grades retiring in 2015 and a similar number expected to leave for other reasons. Whilst this created some vacancies, these were insufficient for bringing about rapid improvements in geographical diversity. With regard to efficiency, cost containment was another area where Member States had requested vigilance. Total expenditure remained stable at 66.6 per cent, not having changed significantly since 2010. In addition, WIPO had managed a gradual realignment of its workforce, buttressing priority areas without increasing the overall size of the workforce. Realignment had been largely achieved through retirements and separations. Only a small number of staff had been made redundant. Through automation and improved processes, productivity had increased while the workforce had remained stable. WIPO's overall gender balance stood at 53 per cent, but there was further work to be done regarding gender balance at senior levels, and to achieve balance at all levels by 2020. Finally, absenteeism rates were decreasing in 2014. The Secretariat then provided some highlights on reforms. In 2013, the WIPO Coordination Committee had approved the Internal Justice System which was an extensive reform and which had been largely implemented. The rewards and recognition pilot had been very well received by staff and an initial evaluation was positive. The second pilot was underway and there would be boards and recommendations by the end of 2014. Gender equality was being implemented after extensive consultation with all stakeholders. Finally, the work on the Enterprise Resource Planning (ERP) system was progressing, with the payroll module having been launched in February 2014. The project had moved on to business

intelligence, which would grant managers instant access to management information regarding their workforce. Electronic voting had also been successfully introduced earlier in the year. For the 2014-2015 period, the focus would be on further geographical diversity and on presenting an action plan for gender balance. Further work was also required on workforce realignment and workforce planning to ensure that adequate additional capacity was afforded to expanding areas without increasing the overall size of the workforce. WIPO's conditions of service and work environment were largely competitive. WIPO was an active participant in the working groups established by the International Civil Service Commission (ICSC) to review the current UN compensation system. WIPO had a very solid workforce, with forward-looking and committed staff, and was well placed to achieve its program objectives.

379. Regarding the Ethics Office, another member of the Secretariat regretfully announced the passing of the Chief Ethics Officer, Mr. Avard Bishop, in July, after an illness, expressing profound appreciation for the significant contribution of Mr. Bishop, who had singlehandedly built up the ethics function and architecture in WIPO, having worked tirelessly and with great dedication on that important task since 2010. The process for filling his position was under way and, in the meantime, Mr. Sergio Balibrea Sancho had been appointed Chief Ethics Officer *ad interim*. Several delegations had expressed their support for the recommendation of the IAOC that the Ethics Office Report stand alone and not be annexed to the HR annual report. The Secretariat concurred that the Ethics Office Report be presented separately in future. The Ethics Office Report made available to delegations provided details of the activities of the Ethics Office in 2013. A significant role of the Chief Ethics Officer was to provide confidential advice to managers and all staff members. Accordingly, the Secretariat could not speak to those aspects of the work of the Ethics Office. In terms of immediate priorities, there had been considerable headway in the development of a new financial disclosure policy (to be finalized in the next few months) for senior staff and other designated members of staff.

380. The Delegation of Japan, speaking on behalf of Group B, welcomed the information contained in document WO/PBC/22/11, particularly its qualitative and quantitative perspectives in light of the discussion during the previous PBC. Group B wished to make some preliminary comments on the document prior to the September Assemblies. Group B agreed with the great importance of an organizational design for WIPO to meet business needs to enable WIPO to respond to a rapidly changing global IP environment. It welcomed the increased focus on the deployment and the alignment of skills by using the benefits garnered through increased automation and the introduction of new technologies, together with the reform of the contractual framework, which could serve as a basis for the requisite organizational flexibility. Group B also welcomed the shortening of the recruitment time, which could further accelerate the Organization's adaptation to a changing environment. Those initiatives should be pursued to enable WIPO to continue as a premier provider of global IP services. From that perspective, specific support towards strengthening the Madrid operations in Section 5 in 2014/15 could be realized, reflecting the strong demand for both systems. The implementation of the HR Strategy, with due regard to the specific needs of the registration unions, should be ensured. Notably, deployments from general service to professional posts had not increased the head count but increased personnel costs, which were a matter of the keen interest to Member States. Therefore, such deployment should be done only if necessary to achieve strategic goals of the Organization. Attention should also be paid to the tendency towards a steeply increasing number of posts at the Director level and above and the average number of such posts in a UN organization should be taken into account. Organizational continuity was as important as organizational change. Therefore, an effective succession mechanism was a fundamental element of the firm basis for a functional organization. Group B strongly supported the implementation of the transition to a formal succession planning mechanism. It also welcomed the inclusion of comparative data showing a downward trend in the report. Staff costs were a key aspect of human resources. The report only included the history of the total amount of staff-related expenditure and its percentage of overall costs in Table 6. Further detailed information in this area would be appreciated. With regard to securing the highest standards of efficiency, competence and integrity were necessary to achieve the objectives

required by the WIPO Convention. While the Delegation also welcomed the Secretariat's work on geographical diversity included in the report, the JIU report had nonetheless also noted the skills shortage in WIPO. WIPO should remain actively engaged with the UN System HR community and committees and contribute both to HR policies and to the ongoing reform of the UN compensation system. Group B noted considerable efforts made by the Secretariat regarding HR issues and called for further implementation of an HR policy with pending audits of HR issues.

381. The Delegation of Paraguay, speaking on behalf of GRULAC, found that the presentation by the Secretariat of the annual report provided a picture of HR trends over the last three years which called for comment. Such reports should include a comparative analysis reflecting trends in HR policy application. GRULAC called for future HR reports to provide such comparative information, which would indicate the actual effectiveness of the policies adopted. Annex 1 of the document provided a breakdown of geographical representation by region up to June 2014, showing that in the entire professional category, only 7.2 per cent of staff came from Latin America and the Caribbean. This emphasized the importance of adopting a new geographical distribution policy as soon as possible in accordance with apparently still-pending audit recommendations. Table 24 of the same annex indicated an application rate of only 24 per cent. GRULAC wished to know what efforts the HR Department would make in order to implement the pending 90 per cent of the new policy, as well as whether it was realistic to expect full implementation of that policy by the end of 2014. Still regarding Table 24, GRULAC wished to know what efforts were being made to install a quality review mechanism in accordance with Recommendation 9, as well as the fate of the HR handbook mentioned in Recommendation 22. Annex 1 referred to 23 recommendations, but the report recognized (in paragraph 83) that a recent audit had resulted in eight new recommendations. Further detail about these new recommendations was required, as well as on what action the Secretariat intended in that regard. GRULAC proposed an addition to the decision paragraph in the introductory note to the annual report as follows: "Upon proposal by the Secretariat, we suggest the inclusion of the following words and recommend that the General Assembly request that the suggestions formulated by Member States be included in the new human resources report to be distributed in the next 90 days." The proposal would be circulated in writing so that Member States could contribute appropriately to the adoption of the decision paragraph.

382. The Delegation of Iran (Islamic Republic of) found the annual report very informative and beneficial. Geographical representation was important both in decision-making bodies and in the number of professionals working in the Organization. This had been recognized in the JIU report, especially recommendation 6, which stated that the WIPO Coordination Committee should revisit the principles governing geographical distribution in order to ensure broader geographical diversity within the WIPO professional workforce. The Delegation accordingly registered its concern on these issues, in the hope that recommendations would be adopted in the committee to change the current status to the benefit of the Member States and the Organization. Upcoming retirements were nevertheless an opportunity for the Organization to follow geographical recommendations. As it requested during the PBC meeting last year, the Delegation urged the Secretariat to prepare a diagram on improving geographical representation between 2010 and 2014 similar to the one on gender balance at the bottom of page 6 of the annual report.

383. The Delegation of Kenya, speaking on behalf of the African Group, found that the annual report provided much information on human resources, but felt that more information was needed to enable decision-making by Member States. In the area of geographical diversity, for example, the information provided did not elucidate the Secretariat's orientation. Annexes 1 and 2 portrayed different situations in regard to geographical possibilities; representation was low in Annex 1 but Annex 2 showed Latin America and the Caribbean as being over-represented in the Secretariat, while the Middle East, Eastern Europe and Central Asia were least represented. Western Europe, North America and the Asia-Pacific region were at the desired levels. However, increased geographical diversity and regional experience had been

discussed as possible remedies to the situation. That was somewhat confusing and therefore considerable clarity was needed. The Delegation also noted that measures such as the change in status for long-term temporary staff and the Voluntary Separation Program did not necessarily result in increased geographical diversity. The representation of Western Europe had in fact increased by 2 per cent. The African Group could not ascertain whether the Secretariat and the Member States were pursuing the same policy. Since all staff were analyzed according to type of contract, it was difficult to assess whether the geographical diversity being pursued was temporary or a long-term measure. The Secretariat was requested to analyze staff by type of contract and by level. In addition, geographical representation should be revisited for the purposes of clarification and should take into account the need to represent all countries in the Secretariat.

384. The Delegation of Spain endorsed the statement by the Delegation of Japan on behalf of Group B. The document was very useful and an improvement on last year's version. It agreed with the outline of the HR policy presented therein. As in past years, the outstanding issue was a need for the annual report to include more specific financial data relating to human resources. For example, percentages would afford a clearer understanding of the proportions accounted for by the most important budget lines relating to human resources. Additionally, the report should indicate what was included in the various HR categories because some expenditure could be interpreted strictly as HR and others could not. Accordingly, for the purposes of comparison, it would be very helpful to have a clear definition of what was considered HR expenditure. The Delegation welcomed the statement that early retirements had been approved in order to be able to issue new contracts to meet a need for new staff members and new skills. However, in WIPO and in other organizations, there was an observed trend to replace administrative posts by Professional posts. While this might be understandable because of the new skills needed by organizations, it could require an increase in staff, theoretically for more administrative posts. That was an important point to keep in mind for such replacements as it would affect HR expenditure overall and would accordingly need careful monitoring. The Delegation endorsed the new recognition and rewards system because initial evaluations revealed that it had been welcomed and had achieved highly positive results. The internal auditor's report was equally useful in that financial remuneration should be exceptional and limited and it would be better to focus on recognition and rewards that were not necessarily pecuniary.

385. The Delegation of Ecuador endorsed the statement by the Delegation of Paraguay on behalf of GRULAC. The introduction to the annual report stated that the HR Strategy was to facilitate integrated services globally and one of the basic objectives was to improve WIPO's responsiveness to evolving global IP needs through an agile and geographically diverse workforce. The document further stated that in attempts to increase the geographical representation of the workforce, outreach campaigns had been organized, but they had been insufficient. The problem had been acknowledged. The Organization was endeavoring to correct existing imbalances and there was a high percentage of Western Europeans in the workforce, particularly in the Professional and higher levels. Point V of the report showed prospects in 2014-2015 for more geographical diversity and there was an intention to set up an action program in order to ensure that geographical representation was included in the Professional levels. The Delegation sought information as to what type of activities the Secretariat would implement in order to involve Member States in the process and to find a solution to the problem acknowledged in the report.

386. The Delegation of Peru supported the statement made by the Delegation of Paraguay on behalf of GRULAC. The annual report before the delegations provided a snapshot, whereas what was really needed was a text identifying current trends and developments. The Delegation requested further information on expectations regarding the three-year HR Strategy issued in July 2013 and on recommendation 7 on establishing, by the end of 2015, a plan of action with specific measures and targets to broaden the geographical diversity of the professional workforce. The delegation had a number of proposals concerning the draft



decision and believed that the report could be made clearer and should take into account the various relevant proposals made. A recommendation could be made to the effect that the GA should take action in that regard.

387. The Delegation of Australia supported the statement made by the Delegation of Japan on behalf of Group B and WIPO's three-year HR Strategy and welcomed the Annual Report on Human Resources. The Secretariat was urged to continue efforts to improve geographical diversity and the gender balance regarding WIPO staff, while taking into account the need to select appropriately qualified candidates. The fall in absenteeism reflected positively on recent HR reforms and the increased focus on staff training was a welcome development. The Delegation requested further information on the Secretariat's involvement in the review of staff entitlements across the UN System carried out by the International Civil Service Commission (ICSC).

388. The Delegation of Mexico supported the statement made by the Delegation of Paraguay on behalf of GRULAC and expressed its condolences at the passing of Mr. Bishop. The Delegation welcomed WIPO's commitment to cooperate with the ICSC, requesting more detailed disaggregated information on the staff costs set out in Table 6 and clarification concerning what exactly constituted a staff cost. Table 6 should contain the figures approved as a part of the 2014/15 budget. The HR Strategy approved in 2013 contained a section on risks and challenges in which it was stated that, although WIPO had a solid financial basis, it faced cost pressures that must be managed robustly. That challenge was relevant when examining the financial issues affecting WIPO and there was a need to establish mechanisms to restrict costs through the alignment of WIPO policies with those of other organizations belonging to the UN System.

389. The Delegation of Germany supported the statement made by the Delegation of Japan on behalf of Group B. The Delegation urged the Secretariat to ensure that the HR Strategy was implemented taking into account the specific needs of the registration unions, to give due attention to the pending audit recommendations in the area of human resources, and to provide more detailed, disaggregated information on staff costs.

390. The Delegation of the United States of America supported the statement made by the Delegation of Japan on behalf of Group B. The Delegation welcomed the progress made regarding the new Internal Justice System, organizational planning, performance management and recruitment and expressed its condolences concerning the passing of Mr. Bishop. The Organization was to be commended for its revised and robust performance appraisal system that included methods to address underperformance, enhance communication between supervisors and their staff, and link individual performance to organizational performance and objectives. The Delegation requested further information on how underperformance was addressed.

391. The Delegation of China emphasized the progress made regarding the HR Strategy and expressed the hope that WIPO would improve transparency concerning recruitment and increase geographical diversity, while linking it to staff performance. The Delegation requested clarification concerning the figures contained in Table 1.

392. The Delegation of Italy expressed support for the statement made by the Delegation of Japan on behalf of Group B and for the goals of the HR Strategy, particularly the improvement of WIPO's capacity to respond to a rapidly-evolving global IP environment. The Secretariat's efforts regarding the optimal use of staff to ensure an appropriate organizational design, management and alignment of skills with the needs of the Organization, and the use of the flexibilities provided by the recent reformed staff contracts were of great value. Global IP needs must be taken into account when implementing HR policies. The Secretariat was encouraged to continue to cooperate with other UN bodies regarding the development of UN System-wide HR policies. The highest possible standards of efficiency, competence and integrity must be

observed and geographical diversity must be taken into account when carrying out recruitment. There was a need for further information on staff costs.

393. The Secretariat turned to the comments made by Group B. The Madrid System was a special area of focus and it was clear that reform was required in order to allow for expansion. There were plans to build capacity where required. Although a number of General Service posts had been converted to Professional posts, entry-level Professional posts were, in fact, the least expensive option in Geneva. Some of the processes dealt with by the Organization were becoming more complex and there was a corresponding need for Professional posts. However, efforts were being made to ensure that staff costs did not increase in overall terms. The issue of a formal succession planning mechanism would be addressed as a part of the workforce planning process. The Secretariat had only begun to compile data on absenteeism in 2013 and would report back at a later date on developments in that regard. Unfortunately, no comparative data relating to other organizations was available and the Secretariat was considering the possibility of participating in a relevant study currently being run by Webster University. Absenteeism within WIPO had fallen. The comments regarding the need to recruit staff based on merit would be taken on board. As to the UN compensation system, WIPO belonged to a number of working groups and was involved in discussions with ICSC and staff representatives and other UN bodies concerning ways of simplifying the system. The needs of the various bodies were extremely diverse, rendering the process difficult. As a Geneva-based, specialized agency, WIPO had very specific needs in terms of recruitment and was in competition with rival employers, who could offer higher salaries. Other bodies had different requirements, for example, field-based organizations needed to attract the right sort of staff to manage operations in very difficult duty stations. However, progress had been made and there were plans to submit a report to the UN General Assembly in that regard. As to geographical diversity, an outreach event was being planned for the Assemblies for unrepresented Member States, with a view to finding qualified candidates and increasing the number of applications. Two outreach campaigns had already been carried out. The first campaign, as a part of which a number of senior posts had been advertised, had not uncovered any suitable candidates. The second campaign had focused on P2 and P3 posts, resulting in a significant number of applications and successful candidates. The Secretariat would continue to run outreach campaigns and had engaged directly with a number of Member States in order to examine the reasons why applicants from those States often failed to be short-listed. The JIU recommendations on the geographical distribution system were being dealt with by the WIPO CoCo and the Secretariat would work with the committee in that regard. Annex II merely contained background information. As to the requests for more detailed financial information, a financial reporting cycle was in place, alongside the Program and Budget and reporting was carried out through annual financial statements and the two-yearly financial management report. The Annual Report on Human Resources did not necessarily correspond to the financial reporting cycle. It was important not to duplicate financial information in reports relating to other fields. The issue of the level of detail of the information provided could be addressed in the context of improvements proposed concerning reporting. The Organization provided detailed information to the Chief Executives Board for Coordination (CEB), which compiled system-wide information on HR-related costs. A system had been established under which managers faced with instances of underperformance established improvement plans in coordination with their staff. Those plans were closely monitored and constructive feedback was provided to the staff members concerned on a regular basis to help them reach the required level of performance. In cases where performance was recorded as being below standard for two consecutive cycles, no step increment was granted. Performance management generated more disagreements between staff and managers than any other issue but played an essential role. The performance management system was still relatively new and it would take time before everyone became more comfortable with discussions regarding appropriate performance. The rewards and recognition system had energized exchanges in that regard and provided an opportunity to talk about what constituted good performance. Public recognition of staff members who had achieved impressive results and high standards of performance had been very helpful. More work was required on audit recommendations. Recommendations 15 to 23

listed in the report had been drawn up as a result of the recent audit on benefits and entitlements. Some of those recommendations had already been addressed fully and work was ongoing concerning those that remained pending. The quality management mechanism to be put in place related to separation procedures and work was ongoing in that regard. The time frame concerning audit recommendation 12 on geographical distribution policy was quite short but work had begun in that regard.

394. The Delegation of Iran (Islamic Republic of) requested the Secretariat to prepare a diagram on trends concerning geographical diversity in the Organization between 2010 and 2014.

395. The Chair read out a revised version of the decision paragraph for agenda item 13, as proposed by GRULAC. In the absence of any objections, the decision paragraph was adopted.

396. The Program and Budget Committee (PBC):

(i) considered the contents of the Annual Report on Human Resources (document WO/PBC/22/11); and

(ii) recommended that the General Assembly request that the suggestions formulated by Member States during the 22<sup>nd</sup> session of the PBC be included in future annual reports on human resources.

#### **ITEM 14 ACCOUNTABILITY FRAMEWORK**

397. Discussions were based on document WO/PBC/22/12.

398. The Chair gave the floor to the Secretariat to present document WO/PBC/22/12.

399. The Secretariat highlighted that the document followed up on the recommendations made by the JIU in its report on Accountability Frameworks in the United Nations System (JIU/REP/2011/5), and the recommendation of WIPO's Internal Audit and Oversight Division (IAOD), in its audit on Results-Based Management to define and seek approval for an accountability framework in line with key components as defined and recommended in the report by the Joint Inspection Unit. WIPO's core values of: (i) accountability for results; (ii) environmental, social and governance responsibility; (iii) service orientation, which were established and strengthened through the Strategic Re-alignment Program, address each of the key components identified by the JIU for a robust accountability framework. The document presented to the PBC served to bind the various elements of WIPO's Accountability Framework together and presented these to Member States in a coherent manner for their consideration and approval. WIPO's Accountability Framework was based on three pillars, fully aligned with the key accountability components defined by the JIU in their report. These pillars were WIPO's covenant with its Member States, stakeholders and the users of its services; WIPO's risk management and internal controls system; and a well-established and functioning complaints and response mechanism. Together these pillars contributed to a culture of accountability and transparency through clear agreements, strategic organizational performance and risk management, as well as complaints and response mechanisms that helped the Secretariat receive feedback from the users of our services. The document provided an overview of each of these pillars and the key elements underpinning these. WIPO's approach to the implementation of the accountability framework emphasized the need for it to serve as the guide in the day-to-day work of managers and staff of the Organization.

400. The Delegation of Mexico thanked the Secretariat for its presentation and indicated that it took note of the information contained in the document. It further noted that it was pleased to see that attention had been given, in particular, to the recommendations made by the JIU and the IAOD to define a framework for accountability for WIPO, and sincerely congratulated the

Secretariat on that achievement. The Delegation supported the consolidation of the key accountability components as set out in the document.

401. The Delegation of Canada thanked the Secretariat for the presentation. It requested clarification on the proposed issues and language, in order to: (i) confirm that the term “consolidation”, which appeared for the first time in the document, referred essentially to putting the three pillars together; and (ii) enquire what such consolidation entailed, considering that basically the Secretariat was already in the process of implementing the benchmarks set by the JIU.

402. The Delegation of the United States of America welcomed WIPO's progress towards implementation of the benchmarks identified by the JIU and WIPO's efforts to fully align its Accountability Framework with the standards and practices recognized by the JIU. It appreciated the Secretariat's report and the valuable insights it provided for Member States regarding WIPO's accountability and oversight responsibilities. The Delegation noted WIPO's efforts to fulfill benchmarks related to formal disclosure of information and appreciated progress made to make the full audit reports available to Member States. It noted that it was particularly pleased to see the internal audit charter include a reference to publishing internal audit and evaluation reports on WIPO's web site within 30 days of issuance, which was already a common practice throughout the UN System and demonstrated the Management's commitment to identifying weaknesses that may exist within the Organization's internal controls, as well as its willingness to address those weaknesses in a transparent manner.

403. The Secretariat responded to the question from the Delegation of Canada, confirming that consolidation referred to bringing three pillars together in the document. It noted that, as could be seen from the description in the document, no new elements were introduced; the Secretariat was simply bringing together the various elements of accountability in order to make it visible and accessible to everybody. The Secretariat also confirmed that indeed, it was measuring itself against benchmarks as it was implementing and continuing to strengthen its Accountability Framework.

404. The Chair read out the decision paragraph proposed in the document. In the absence of any comments, the decision was adopted.

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

(a) endorse the consolidation of the key accountability components in accordance with the three pillars of: (i) covenant with Member States, stakeholders and users of WIPO's services; (ii) risk management and internal controls; and (iii) complaints and response mechanisms presented in document WO/PBC/22/12, as “WIPO's Accountability Framework”; and

(b) take note of the implementation of the recommendations of the Internal Audit and Oversight Division (IAOD) and the Joint Inspection Unit (JIU) to define and obtain approval for an accountability framework for WIPO.

## **ITEM 15 RISK APPETITE STATEMENT**

406. Discussions were based on document WO/PBC/22/17.

407. The Chair invited the Secretariat to present this agenda item.

408. The Secretariat noted that the proposal followed requests made by WIPO's IAOC and the IAOD to establish a risk appetite statement, in order to effectively implement enterprise risk management by the end of the 2016/17 biennium. As many Delegations were aware,

strengthening of risk management and internal controls was a central initiative under the Strategic Realignment Program (SRP) and continued to be improved as the Organization went beyond the SRP. The risk appetite statement was issued within the context of the Secretariat's ongoing work to strengthen its risk management and internal controls system. A critical component of the work was to establish a risk appetite for the Organization, which had been called for by both the IAOC and IAOD. The risk appetite statement set out, at a very high level, the amount of risk that Member States and the Secretariat agreed it would be acceptable for the Organization to take in the course of its daily operations. Although the Organization strived to minimize the impact of risks encountered in the pursuit of its strategic objectives and expected results, there was a need to expect a certain amount of risk, underpinned by shared ownership between Member States and the Secretariat. Once defined, this threshold would represent the benchmark against which WIPO would actively manage its risks. WIPO defined its risk appetite in terms of operational risks, financial risks, strategic risks, and, additionally, the reputational impact of some of these risks. These were expressed as residual risks, i.e., risk after mitigation measures had been established and implemented or controls had been implemented. Any risks in excess of WIPO's risk appetite would be assessed by program managers and/or the WIPO risk committee and would only be accepted after explicit approval when they were within delegated levels of authority in line with the Organization's regulatory framework, and after ensuring mitigation measures in place were suitable and appropriate. In preparing the proposal, the Secretariat added that it had looked at what other UN organizations had been able to establish through consultations with their Member States and modeled the proposal on some of the examples found within the UN System.

409. The Delegation of Canada thanked the Secretariat for its presentation and requested some clarification on a few points. The Delegation wondered whether the Secretariat provided internally, for example, definitions for terms such as small impact, noticeable impact, critical impact, moderate, low, minimal or whether it provided discretion to program managers in defining these terms. Depending on the answer from the Secretariat, the Delegation wished to know how the Secretariat sought to ensure a consistent application of risk appetite thresholds in view of the fact that these terms could be subjective or that the terms could have subjective definitions unless defined centrally by the Secretariat.

410. The Delegation of Mexico noted that, according to the JIU, it was the senior management of an organization that would be obliged to dedicate time to the supervision of institutional resources, so the Delegation commended the presentation of the risk appetite statement of WIPO, which would complement the risk management and internal control systems of the Organization. The Delegation was fully aware that the establishment of a risk appetite statement was a complex task, and it praised the effort of the Secretariat to submit this statement to the PBC. It also congratulated the Secretariat for having divided the statement into various risk categories, that is, operational, financial, strategic, and reputational risks, which was in line with the recommendations of the JIU and its report of 2010. Regarding strategic risks, the Delegation indicated that it believed there was still work to be done to reach a common understanding of the advantages of a well-balanced international property system, and to identify and agree on opportunities that would facilitate the enlargement of the international framework. In its view, although many of the risks fell on Member States, it was up to the Secretariat to play a more proactive role to minimize the strategic risks inherent in the role of the Organization.

411. The Secretariat indicated that the Organization did have a comprehensive WIPO Risk Management Policy, which had been established to provide guidelines and definitions to ensure a consistent understanding of the terms mentioned, and noted that it would be pleased to share a copy of that with the Delegation. It further noted that there were challenges, and that the Organization was in the early stages or middle part of its journey, and added that it would have to thank the IAOC for having set it on this path, as well as the work done during the SRP, which helped to make tremendous progress in respect of risk management and internal controls.

412. The Chair thanked the Secretariat and, as he saw no other requests for the floor, he put forward for consideration the decision paragraph regarding this agenda item, as appearing in the document: As there were no comments, the decision was adopted.

413. The Program and Budget Committee noted the establishment of WIPO's Risk Appetite Statement, in accordance with audit and oversight recommendations, as set out in document WO/PBC/22/17.

## **ITEM 16 PROPOSAL ON CHANGES TO POLICY ON INVESTMENTS**

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

415. The Secretariat introduced the Proposal to amend the Policy on Investments, by explaining that in December 2010, a Policy on Investments had been submitted to the PBC in accordance with Financial Regulation 4.10 (WO/PBC/15/8). Having examined the document, the PBC had requested the Secretariat to present a re-drafted proposal at a further session, taking into account the observations and comments made by the Member States. Accordingly, a revised policy, simpler in content than the 2010 version, had been submitted to the PBC at its 2011 sessions (document WO/PBC/17/6), and had been approved by the Assemblies during its 49<sup>th</sup> session in autumn 2011. This revised policy had taken into account the observations and comments from the Member States in removing any reference to the use of external investment managers for the management of the Organization's funds. The Secretariat explained that the Organization had recently had some developments in its financial management environment, and had therefore compiled a series of proposals setting out these developments and the work that needed to be done, which was detailed in document WO/PBC/22/19, for further development on the basis of Member States' feedback. The Secretariat then stated that the principal changes to the financial management and investment environment arose from the fact that the Organization was currently holding its bank deposits with the State of Switzerland within the Federal Finance Administration (FFA), but had received a communication from the Swiss authorities that this banking relationship would not be available to international organizations, including WIPO, by the end of 2015. The Secretariat indicated that the Investment Policy previously adopted by the Member States referred to this banking relationship and would, therefore, have to be updated and revised, given that this relationship could no longer exist. The document was therefore outlining some of the implications for the investment policy in respect of this change, and the principal change would be in respect of the credit ratings that would apply to the other banks with which the Organization would have to place its monies. This was the almost immediate imperative. In answer to a question raised earlier by the Delegation of Canada about the treasury and cash management recommendation in the JIU report, the Secretariat explained that a treasury and cash management study had been undertaken in November 2013 and had been completed by March/April 2014. A number of recommendations had been made by the treasury experts, and some of these, as well as their implications for the investment policy, had been incorporated in the document currently under consideration by Member States. The Secretariat reminded delegates that the Director General had pointed out that strengthening financial management was a key priority. The Organization would need to consider differentiating between its long-term investment strategies and current strategies for, as the Delegation of Spain had indicated, the Organization's ASHI (After-Service Health Insurance) liabilities were not fully funded. Several UN agencies had progressed further along the way to fully funding or almost fully funding their ASHI liabilities. WIPO's funds were not currently earning a rate of return that would enable the Organization to maintain its current level of coverage.

416. The Delegation of Paraguay, speaking on behalf of GRULAC, was grateful to the Secretariat for the submission of proposals on possible changes to the investment policy. Making a decision on this would require careful study because, whatever the outcome, the decision would have an impact on the financial situation of the Organization. Given the

far-reaching nature of the issue, the Delegation thought that taking a decision at the current session of the PBC would be extremely premature and requested the Secretariat to draw up a detailed proposal for the new policy, bearing in mind the various elements included in the document in addition to those proposed by Member States during the discussion. The Delegation considered that paragraph (c) under (ii) of the draft decision ought to be amended. The repayment of the loans on the new hall would be a possibility, but before undertaking this, it would be necessary to establish whether this would engage any financial penalties for the Organization.

417. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, recognized the need to revise the policy in light of the fact that cash surpluses in Swiss franc could no longer be held with the Swiss authorities. The Swiss authorities had fulfilled the conditions required under the current investment policy of WIPO, but commercial banks in Switzerland did not. The Delegation added that a solution of this problem was fundamental for the Organization which also had to bear in mind the existing commitment related to the new construction project and the ASHI liabilities. Therefore, it was crucial to analyze the problem and possible solutions in detail and to submit detailed proposals, delivered in a comprehensive manner, at the next meeting of the PBC.

418. The Delegation of Japan, speaking on behalf of Group B, believed that careful consideration would be necessary of the impact which the change of the investment policy might have on the assets of WIPO in the future. In this regard the implications of any possible changes to the investment policy, either direct or indirect, should be disclosed to Member States in a comprehensive manner. If the policy were to allow WIPO to invest in a wider range of products, which could bring higher risks, the Organization might need additional professional staff to work on investments which could mean that additional personnel costs would be incurred. The Delegation added that, taking into account the importance of this issue, various options should be presented in order to allow Member States to compare pro and cons with enough information. From this perspective and due to the deadline of December 2015, it was premature to endorse or prejudge any basic directions at this juncture. Group B supported the submission of a detailed proposal at the next PBC session, to include possible options and comprehensive information, to the extent possible, on the financial and budgetary implication of each option. The Delegation added that Group B preferred the conservative approach including lower risk profile investments in as much as they could achieve the objectives relating to future liabilities of the Organization. It also believed that the general principles of the current investment policy whereby the primary emphasis lay on minimizing the risk to principal funds while insuring the liquidity necessary to meet the Organization's cash flow requirement should be kept. With respect to ASHI, the Delegation's group was looking forward to an ALM study and the future proposal on a separate investment policy for ASHI financing, but as mentioned under agenda item 11, measures to contain and reduce the long-term liability should also be further considered. As for the Conference Hall and loan repayments related to the new construction project, subject to sufficient liquidity, the Delegation basically supported the direction proposed by the Secretariat. However, it wished to know the reason why the loan specified in the document had been chosen for repayment from amongst the loans WIPO held currently, and requested further information on the penalty for loan repayment.

419. The Delegation of Spain acknowledged that the document addressed an event outside the Organization's control. The situation obliged the Organization to change its investment rules in terms of the ratings sought for investments. The Delegation suggested the Secretariat investigate new possibilities in terms of investing in other currencies given that the Organization had expenditure in other currencies. The study undertaken should look at the possibility of minimizing risk through diversifying currencies. The Delegation also agreed with what had been said concerning loan repayments. There were some loans that had quite high interest rates, and these were much higher than what could be earned on the Organization's investments. There was a need for an investment strategy for the ASHI funds and the Organization should ensure, that in the medium and the long-term, this would not represent any kind of an

investment threat. The investment study needed to ensure that the return on investment would allow the Organization to continue with its current plans. The document suggested, for instance, extending loans to staff members, and this could be extended beyond WIPO to the UN System, if resources were available. The Organization needed to consider the sustainability of the ASHI funds. This depended not just on the return on investment but also on looking at what had been done by other UN Organizations and at how they were working to contain the costs involved.

420. The Delegation of Canada, referring to the proposal to finance the new conference hall through monies available for investment rather than through loan drawdowns, asked for clarification as to what constituted "sufficient levels of liquidity" and what was the implied margin that underpinned the term "sufficient," which would keep WIPO isolated from a lack of liquidity. Regarding ASHI financing, the Delegation understood from paragraph 30 (b) that the Organization needed to maintain a 2.3 per cent return on the ASHI monies set aside in order to maintain proportionality. Achieving such a rate appeared at first glance to exclude investment in lower risk assets as an option, particularly when considering the rates offered by the Swiss authorities which were much less than 2.3 per cent. Capital erosion would likely be inevitable and would have to be compensated somehow. The Delegation requested more details from the Secretariat as to how this compensation would work. It thought that this would essentially imply a constant injection of funds to make up for recurring shortfalls and they would have to come from somewhere. The Delegation asked whether the Secretariat could indicate where those funds would come from. The Delegation thought the only conceivable way for WIPO to maintain the requisite 2.3 per cent return on the ASHI monies set aside without having to resort to supplementary injections of money, would be through seeking the high returns that were only really available through high-risk investments. This certainly appeared to leave the Organization without many options, as was the case in other inter-government organizations. It strongly implied resorting to external fund managers or hiring fund managers and this choice was something to consider in its own right. Regarding ASHI in particular and the WIPO investment policy in general, the Delegation wished to know from the Secretariat about the availability of any vehicles in Swiss francs that would provide an alternative to the Swiss National Bank at comparable or higher interest rates, regardless of the risk level. Secondly, it inquired how other Swiss-based international organizations were reacting to the withdrawal of the ability to invest with the Swiss authorities and what alternatives were being considered by these organizations. Thirdly, it asked what sort of returns or losses on their ASHI investments as outlined in table 4 of the document were seen by organizations such as the ILO and the WMO. Fourthly, the Delegation wondered whether WIPO could make investments in foreign currencies and what that would entail. Finally, it asked what the costs associated with both external fund management and hiring internal fund managers were. The Delegation presumed such costs to be prohibitively expensive, particularly in Geneva. The Delegation did not require answers to its questions immediately, but believed that these elements could certainly be part of the detailed proposal and/or the ALM study.

421. The Delegation of the United States of America noted that the investment policy represented an appropriate balancing of the twin concepts of managing risk and ensuring a reasonable rate of return on investments. It appreciated WIPO's proposal to give modest options for investment policy changes. Ensuring transparency so that Member States could see clearly the financial performance of investments was crucial. It also appreciated the careful detail that the Secretariat had brought to its recommendations of appropriate types of investments and the ratings that organizations received from rating agencies. This level of detail demonstrated that the investment policy was very thorough and comprehensive and would be supportive of marginal changes due to market conditions. The Delegation cautioned against riskier investments for the ASHI long-term liabilities and welcomed a more conservative approach. It wished to see how ASHI was addressed by the UN General Assembly. The option outlined still needed to address questions such as how WIPO would ensure that the status of the investment entity was transparent to Member States, and how information about it would be incorporated into the Organization's annual financial statements and be just as transparent.



The Delegation further recognized the need to amend the policy on investments and requested the Secretariat to submit a detailed proposal on a revised version of the policy at its next session, following its review and clearance by the Investment Advisory Committee. The Delegation welcomed the ALM study and the submission of a separate investment policy for ASHI financing, following its review and clearance by the Investment Advisory Committee. It noted that, subject to there being sufficient levels of liquidity available, the Conference Hall ought to be financed with investment money rather than drawing down on the loan. That would be the Delegation's first preference. However, it cautioned against the use of both options together, namely using investment money to pay for the Conference Hall and making loan repayments.

422. The Delegation of the United Kingdom commented that the financial markets continued to be in a state of flux with interest rates at record low levels. With a change in the Swiss Federal Finance and Administration (FAA) rules which would not allow WIPO to deposit funds with FFA from the end of 2015, the Organization was forced to take a fresh look at its investment policy, what the Organization wished to achieve from it, the appetite for risk and the investment vehicles available to meet the resulting investment criteria. The Delegation added that, with interest rates remaining low on deposits it made little sense to take on more debt, if the interest rates being charged were significantly higher than those being earned. Thus, subject to there being sufficient liquidity, the Delegation supported in principle the use of reserves as opposed to loan capital for projects such as the conference center. The Delegation believed the Secretariat's approach to the situation was correct and gave its support. The ASHI liability was continuing to grow, was responsible for all of the increase in employee benefit liabilities and had risen from 77.5 per cent of these liabilities to 79.4 per cent in one year. This represented the greatest long-term financial threat to WIPO, and the Delegation had suggestions to contain costs. WIPO could meet the long-term liability without compromising its objectives. The Delegation believed the Secretariat's approach to the situation was correct, and offered its assistance to the Secretariat as required.

423. The Delegation of Germany believed that more information on the financial and budgetary implications was needed in order to take an informed decision and was looking forward to a detailed proposal at the next PBC. On the content, the Delegation added that it also preferred the conservative approach as outlined by Group B.

424. The Delegation of Mexico wished to know what a sufficient level of diversification was, in terms of those institutions with which the Organization would work. It asked if the risk levels for investments were known and if there were other guidelines that WIPO could use in this respect. Swiss banks were offering very low deposit rates, and yet at the same time were costly institutions. The Delegation therefore thought that it was essential to have more information about the estimated costs of the various investment options that would be available with these institutions. While diversification was important, this should not be at the expense of the level of resources available to WIPO. It added that there was a need to explore, as mentioned by other delegations, the possibility of depositing funds abroad, providing that the ratings were sufficiently high, even if this was in a currency other than Swiss francs. There were currency exchange risks, but this solution ought to be considered. The Delegation wished to have more information on possible instruments, their levels of return on investment and their safety levels, as mentioned in paragraph 26. It added that at present the Organization did not have the necessary management expertise for managing its investments once these had been withdrawn from the Swiss authorities and so it wanted to know what the cost would be of contracting external services, what the structure of the Secretariat in terms of investments was like in other UN organizations, and also how many new people would have to be hired and at what cost. It agreed with the idea of an ALM study that would help to adjust the investment policies for the ASHI funds, and it wished to see the Secretariat consult with the high-level group that had been created amongst the chief officers of UN agencies in order to learn how other agencies were dealing with the ASHI fund investments. Finally, the Delegation agreed that the Secretariat should make use of available resources for the new construction or the repayment of loans,

providing that this would be to its benefit. It requested some additional information on the conditions of the loans and the concept of prepayment. The interest that was paid by WIPO would probably be higher than the returns gained on investments, and the question of necessary liquidity levels had also to be taken into account. Before taking a final decision a careful consideration of the proper revision of the investment strategy was needed. Here, the Delegation supported the statement made by the GRULAC coordinator, as it thought it was too early to adopt subparagraph (c) of the proposed decision.

425. The Secretariat acknowledged the guidance and very valuable inputs provided by several delegations and added that it did not have answers to every single question because that would be the purpose of its review of the policy. It was clear that delegations wished to see options and a good evaluation of the options so that they could take an informed decision. With regard to the question of the loan repayments, the Secretariat clarified that there were two principal loans in place, and that they were clearly indicated in the financial statements. The Organization had a loan with FIPOI which had been taken out many years ago on which it did not pay any interest, so the proposal to make some repayments did not refer to that loan. The second loan was held with two banks, the *Banque Cantonale* of Geneva and the *Banque Cantonale* of Vaud and had been put in place for the new construction. This loan had been drawn down in four different tranches over a period of time and each of those tranches could be repaid at the end of a period of time that had been determined as each tranche had been drawn down. The repayments that were suggested in point (c) referred to two tranches of the loan that had been taken out for the building. The first tranche had been drawn down in 2009, and was due to be repaid in 2019. The second tranche was drawn down in 2010, and was due to be repaid in 2015 in November. This was one of the two amounts referred to in the document. The third tranche was drawn down in 2010 and was due to be repaid in 2025 whilst the final tranche was drawn down in 2011 and was due to be repaid in January 2016. This was the second of the two amounts referred to in the document. Considering those repayment dates, the Organization had a choice. It did not have to make the repayments, but would instead have to renegotiate the loan tranches and extend them for another period of time. Given the disparity in the interest rates (the difference in the interest rates that the Organization was paying on the tranches and earning on investments), the Secretariat believed that, if cash flows allowed, the Organization had a good opportunity to repay parts of the loan. All of these tranches related to the same loan, the loan for the new construction. The Secretariat responded to the question raised by the delegation of Paraguay as to whether there would be penalties for the repayment of these tranches, and added that there would not be any. Drawing down a tranche of the loan was very much part of the loan agreement and part of the agreement was that when the Organization reached the end of the lifetime of a tranche, it would have the ability to repay it.

426. The Chair pointed out that there had been a question by Canada regarding the expression in the proposed decision concerning “sufficient” liquidity.

427. The Secretariat pointed out that reference had been made in the document to certain liquidity measures. This was in the footnote on page 6 (English version), where the calculation of current ratios and liquid ratios was explained. These ratios were standard measures that were very well known in the worlds of accountancy and banking, and one could look at these sorts of measures to measure the liquidity of WIPO and to compare the liquidity of WIPO with other Organizations. There were possibly other ratios as well, but basically these were the accepted standard measures. The Secretariat reviewed ratios such as these, together with the forecast cash flows, which were produced in Finance on a regular basis. The Secretariat further explained that it watched cash flow forecasts not only to ensure that future expenditure could be covered but also to ensure that sufficient liquidity was available to cover the target set for the reserves policy. As the time to make the loan repayments arrived, the Secretariat would obviously take all of these factors into account, considering liquidity ratios and also ensuring that there would be enough cash to meet future expenditure. The Secretariat then addressed the idea of investing in foreign currencies that had been proposed by a few delegations, explaining that there was both a simple and complicated answer. The simple answer was that

the Organization could invest in other currencies. In other countries there were often higher interest rates available than those available in Switzerland on Swiss francs. Taking one example, it would be currently possible to invest US dollars on the island of Mauritius, and to obtain a return of 3 per cent. The Organization could therefore convert all of its Swiss francs into US dollars and place them with banks on the island of Mauritius. The Secretariat then continued with the more complex answer. In the same example, all of the Swiss francs would be converted into dollars at the current exchange rate and would then be invested with banks in Mauritius where they would earn the 3 per cent. As the Organization would eventually need the money back, because it was a Swiss franc-based Organization and almost all of its expenditure was in Swiss francs, the example given assumed a deposit period of one year. Assuming that during that year nothing really dramatic happened, and the relative positions of the two countries, Switzerland and Mauritius, remained the same, the exchange rate obtained when turning the dollars back into Swiss francs would be at a level that would ensure that the Organization would receive the same number of Swiss francs that it would have had if it had kept the Swiss francs in the first place and invested them in the Swiss franc market. This was the way foreign exchange markets operated. However, it was possible to acquire hedging instruments to protect the exchange rates at which the dollars would be converted back into Swiss francs. Hedging instruments could be put in place that would protect the exchange rate and some, but not all, of the extra interest that had been earned in the island of Mauritius. The Secretariat explained that the scenario was actually even more complicated because, effectively, the hedging instrument would be taking advantage of some sort of anomaly within the foreign currency markets. The Secretariat referred back to the document and explained that investing in currency markets would call for considerable expertise in terms of knowing the market, understanding hedging instruments, recognizing opportunities, and being able to determine which investment products to use, over which timeframe and with which hedging instruments, and looking at the timing that the projects would entail. It added that the Organization did not have such in-house expertise. Other UN agencies did invest in other currencies but this was done through external fund managers who had the expertise.

428. The Delegation of Mexico believed that it was still too early to take a decision concerning the loan repayments. While it understood that November 2015 would be the first repayment and then January 2016 the second, a full report with all of the options would be required in order to enable a better informed decision to be taken. There were many investment options available, and the Delegation wished the Secretariat to expose the advantages and disadvantages of all of them. Just as there were risks in investing in other currencies, there were also risks in investing in certain instruments in Switzerland. There was also the question of bank charges to be paid in Switzerland. The Delegation further stated that the guiding principle for any investment was to safeguard the capital available for investment. It was necessary to look at all possible options and their variations and the Organization did not have to choose a single option. There could be a menu of options adopted for investing the funds of the Organization, because while it needed a certain level of liquidity, liquidity did not have to represent 100 per cent of its investment resources.

429. The Delegation of Spain shared the view of the Delegation of Mexico that the matter was complex. It was a simple example to suggest simply taking all the Swiss francs and turning them into a different currency, but that was not really what had been suggested. Investing Swiss francs in another currency brought, from the beginning, a certain inherent risk, but in the current situation there were also risks and none of this would prevent the Organization from submitting a study on possible investments. The Delegation added that it was a member of financial committees in other organizations which had their own pension funds, and these encountered various risks. If there were to be a prepayment of the loan, the Organization might save money. However, there could be a penalty imposed for such early payment. This matter was very complex and the Delegation stressed the need for a detailed study.

430. The Chair explained that if the Organization made the payments on the stipulated dates there would not be penalties involved. Referring to the decision paragraph and particularly to

sub-paragraph (c), he asked whether GRULAC would agree to the first part of the paragraph, namely: *“subject to there being sufficient levels of liquidity available, finance the Conference Hall from monies available for investment rather than by drawing down the loan which has been put in place for this purpose”*.

431. The Delegation of Paraguay thanked the Secretariat for its clarifications on a number of points that it had raised regarding penalties and also the payment dates for the reimbursement of the loans as well as the sufficient level of liquidity. With these clarifications it could better understand subparagraph (c) but wished to receive a proposal from the Secretariat in relation to subparagraph (c) so that it could analyze the entire point for decision.

432. The Chair read aloud the decision paragraph, now amended in sub-paragraph (c) as proposed by the Secretariat: the Program and Budget Committee: *“(i) recognized the need to amend the policy on investments and; (ii) requested the Secretariat to: (a) submit a detailed proposal on a revised version of the policy, at its next session, following its review and clearance by the Investment Advisory Committee; (b) undertake an ALM study and submit a separate Investment policy for ASHI financing following its review and clearance by the Investment Advisory Committee; (c) subject to there being sufficient levels of liquidity available, finance the Conference Hall from monies available for investment rather than by drawing down the loan which has been put in place for this purpose.”* He added that the Secretariat would be available for further clarifications if required.

433. Following further consultations within GRULAC, the Chair read the decision paragraph which had been amended in sub-paragraph (c).

434. The Delegation of Paraguay commented that the Secretariat had now provided clarifications that had been very useful in terms of understanding the draft decision. The Delegation added that it would have liked to have had some of these explanations reflected in the decision that was to be approved. The Delegation was satisfied with the clarifications that had been given, understood them as having been received informally, and could accept the proposal.

435. The Program and Budget Committee:

- (i) recognized the need to amend the Policy on Investments; and
- (ii) requested the Secretariat to:
  - (a) submit a detailed proposal on the revised version of the policy at its next session following view and clearance by the Investment and Advisory Committee;
  - (b) undertake an ALM study and submit a separate Investment Policy for ASHI financing, following its review and clearance by the Investment and Advisory Committee;
  - (c) subject to there being sufficient liquidity available, finance the New Conference Hall from monies available rather than by drawing down the loan which has been put in place for that purpose.

## **ITEM 17 PROPOSAL TO REFORM AND ENHANCE PROGRAM PERFORMANCE AND FINANCIAL REPORTING**

436. Discussions were based on WO/PBC/22/27.

437. The Secretariat presented the document and underlined the importance of disclosure, the need to continuously improve reporting mechanisms to Member States and make reports more usable and easier to access. The Secretariat added that, in preparing for the PBC, it had noticed that there was considerable duplication in the information provided. It stressed the need

to proceed to an evaluation of the current reporting mechanism, together with Member States, through a survey which would establish the extent of reporting and the usefulness of the various elements of reporting being provided. The Secretariat recalled that, under the current reporting mechanism, there was the Financial Management Report (FMR), the Financial Statements, audited by the external auditors, and elements of the financial statements which were encouraged by the IPSAS Board. These elements overlapped with the FMR which provided Member States with a budgetary performance analysis, discussions on program performance as compared to the budget, and why there had been variances on the utilization of the budget. There was an element of duplication between the Financial Statements and the FMR. In addition, there was also the Program Performance Report (PPR) which, over the years, had grown to provide two very comprehensive views. One was a results-based view and the other was the program-based view. This resulted in an additional layer of reporting that had been added to the PPR. The Secretariat said that, in addition, in response to requests and recommendations made by the audit and oversight bodies and backed by Member States, improvements to the presentation of financial and budgetary information had been made in the PPR and this had resulted in yet another level of duplication. The Secretariat estimated that the level of duplication across these different documents was approximately in the range of 20 to 30 per cent adding that, if this were to be considered across all languages, then it could be seen how voluminous the documentation provided to Member States was. The Secretariat explained that these were the reasons behind its desire to obtain the inputs and thoughts of Member States through a structured survey and to seek the guidance of Member States in terms of how improvements could be made, adding that the opinions of the financial experts back in capitals would be welcomed. This, said the Secretariat, would be very helpful and would allow the resulting feedback to be consolidated and combined with the assessment made so as to provide Member States with a more detailed proposal next year during the PBC.

438. The Delegation of Japan, speaking on behalf of Group B, thanked the Chair and the Secretariat for the outline made in respect of improving financial reporting as described in document WO/PBC/22/27. The Delegation expressed the Group's support for the basic direction proposed to streamline the information provided in a manner allowing disclosure to be maintained or enhanced. The Group believed that the integration of programmatic, budgetary and other relevant information into a biennium performance report could be done in a way which would enable a more holistic review to be conducted, adding that Group B looked forward to seeing the Secretariat's concrete proposal and that further discussions could be had on this basis.

439. The Delegation of Mexico said it was in favor of any measures that would make systematic and improve the information contained in reports transmitted to Member States and, in that spirit, welcomed the proposals submitted by the Secretariat to integrate the program, budget and financial information into one single report. This, added the Delegation, would reduce the burden on the Secretariat, reduce the cost of translating the reports and also make it easier for Member States to analyze the information contained in them. The Delegation added that it would await a detailed proposal on the contents and format of the report and already wished to stress the importance that should be given to content, so as not to undermine the principle of transparency of information.

440. The Chair put forward the decision paragraph contained in the document for consideration by Member States. There were no comments and the decision was adopted.

441. The Program and Budget Committee, having reviewed document WO/PBC/22/27:

- (i) recognized the opportunity to improve biennial performance and financial reporting;
- (ii) welcomed the Secretariat's proposal to move to a comprehensive and integrated Biennial Performance Report; and

(iii) requested the Secretariat to submit a detailed proposal on the format and content of such a report at its next session, taking into account Member States' feedback through a structured survey.

## **ITEM 18 PROPOSED AMENDMENTS TO THE FINANCIAL REGULATIONS AND RULES**

442. Discussions were based on document WO/PBC/22/10.

443. The Chair invited the Secretariat to present the proposed amendments to the Financial Regulations and Rules (FRR).

444. The Secretariat noted that amendments to the FRR were made in accordance with Regulation 10.1, whereby the Director General may propose amendments to the regulations, and any such amendment would need to be approved by the GA. The present document contained proposals for amendments to WIPO's FRR, with amendments proposed to Regulations 2.8, 5.10, 5.11, 8.1, and 8.9. The changes represented good housekeeping and primarily addressed the need to update the FRR in order to (i) align it with the evolution of other elements of WIPO's regulatory framework, (ii) to recognize the evolution of current practices and business requirements of the Organization or provide clarification required in day-to-day operations on specific issues, and (iii) to address any inconsistencies or inaccuracies that are detected in the FRR as the Organization used these to carry out its work. The Secretariat highlighted that key changes related to the text proposed to be added in line with the treaties administered by the Organization, to address the recommendation of the IAOC, to reflect the scenario where the Program and Budget of the Organization may not be adopted in time for the start of a new biennium. This concerned Regulation 2.8. The second key change proposed was related to *ex gratia* payments, where the proposal was to: (i) establish clearly what *ex gratia* payments were intended to cover (these were payments where the Organization had no legal liability to pay, but where the moral obligation was such as to make payment desirable); and to (ii) align WIPO's practice better with the UN System practice by removing the limitation of 20 thousand Swiss francs per biennium on such payments. On this specific point, the Secretariat added that the need for this change was driven primarily by a situation faced in the previous biennium, where for the only *ex gratia* payment made, the Organization had to make a payment which was slightly higher than the 20,000 Swiss francs limit, and that this was related to the medical costs of a delegate. The final key changes related to procurement, which were proposed in order to align the definition of procurement and its guides principles more closely with those of other UN common systems organizations (this concerned Regulation 5.11).

445. The Delegation of Mexico took careful note of the proposed amendments to the FRR. It believed that amendments to Regulation 2.8 were particularly timely. It noted that there was a need to reflect a scenario where the Program and Budget was not adopted in time for the start of a new biennium and therefore it considered the amendments appropriate. It also noted that the amendments on procurement were useful, in order to enhance controls and monitoring and to specify principles that must be followed. The Delegation urged the Secretariat to enhance cooperation with other bodies regarding calls for tender or collective procurement procedures and believed that the Secretariat should seek to improve procurement procedures within WIPO as far as possible. Therefore, the Delegation supported the decision proposed in paragraphs 4 and 7 of document WO/PBC/22/10. Furthermore, in accordance with the JIU recommendation, when it came to consideration of WIPO's management and administration, the Delegation requested the Secretariat to produce a compilation of all basic texts of the Organization, including the latest version of the FRR, and asked that such compilation be distributed to all Member States.

446. The Delegation of Japan, speaking on behalf of Group B, thanked the Secretariat for document WO/PBC/22/10, which set out a number of proposed amendments. The Delegation agreed that many amendments were helpful and indeed necessary to bring WIPO's FRR up to date. It noted that the clarification regarding Regulation 2.8 was particularly welcome.

However, it was concerned by the proposal to remove limits on *ex gratia* payments. While it accepted the example given, it noted that there was no proposed limit on *ex gratia* payments. It did not believe the case had been made for changing WIPO's strict approach. Group B believed that having a strict limit on such payments was necessary to ensure that whatever payment was made (where WIPO had no legal liability) would be kept to the absolute minimum. Additionally, regarding the proposed change to Rule 105.22 (relating to contracts) the Delegation remarked that, according to the proposal, the specification of necessary information was to be moved from Rules to the level of office instructions. In the Delegation's view, this might sacrifice transparency for Member States. The Delegation requested clarification regarding the difference between Rules and office instructions.

447. The Delegation of Spain wished to make two comments. First of all, it thanked the Secretariat for its efforts and noted that the majority of the proposed amendments were improvements over the existing text. Regarding the *ex gratia* payment, the Delegation referred to what the Coordinator of Group B had said, but also wished to ask about a case that had arisen, i.e., medical costs of a delegate that had a problem during a meeting. The Delegation wished to know whether, in such cases, there was a WIPO insurance or whether the insurance of the delegates covered such medical expenses. It also indicated that it was looking forward to hearing a response regarding the change to Rule 105.22.

448. The Delegation of El Salvador supported the statement of the Delegation of Mexico, i.e., that the Secretariat should provide a basic compilation of the Organization's regulations, including the FRR, and that it should be circulated.

449. The Secretariat clarified that the Regulations were placed before the Member States for approval, while the Rules could be changed by the Director General, and were disclosed as amended or updated. Regarding the question on *ex gratia* payments, the Secretariat responded that there was, in its understanding, an insurance coverage; however, there was an element of costs not covered by the insurance and the Organization had to pay a little above 20,000 Swiss francs to cover those expenses. The Secretariat further noted that it was, of course, entirely in the hands of Member States. It had heard Group B's statement on how it should go forward with this issue and could retain the original threshold as established. It recalled that *ex gratia* payments were disclosed in the financial statements and subject to audit, which was an additional point it wished to share. On the question raised by the Delegation of Japan (on Rule 105.22), the Secretariat noted that the issue was that as it strived to be more efficient and streamlined in its operations and procedures, it identified repetition in various documents and actually moved the bulk of this Rule to an office instruction, which was what governed practical implementation. This change would not affect in any way the internal controls in terms of their strength; it was purely a matter of simplification that the Secretariat tried to do.

450. The Delegation of Spain noted that it was difficult for Member States to check what elements were included in office instructions. It considered that it was a difficult process to change the Rules and include the most important elements in an office instruction. It expressed concern at not seeing the actual contents of that office instruction.

451. The Secretariat further clarified that the detailed requirement list had been moved into an office instruction, but no substance had been lost. Having the details in an office instruction made it easier to do housekeeping and maintenance on these procedures, but removed none of the nature of the requirement that made it part of the Organization's regulatory framework. In respect of the requirements that the Organization had to comply with on procurement, these remained very much a part of the regulatory framework of the Organization. This also meant that it was audited against these. When the auditors, be that external or internal, were looking at whether the Organization had complied with the requirements under the regulatory framework, they would look at Regulations, Rules and Office Instructions included, as well as manuals. The fact was that, with respect to its strength, the requirement does not effectively

lose any strength nor is there any loss of visibility or transparency. If there was any issue in respect of compliance, the external auditors or internal auditors would pick it up regardless of whether it was a Regulation, Rule or an Office Instruction. The report of the Auditor would recognize that and highlight it.

452. The Delegation of Spain indicated that it had gained a better understanding, and noted that in that case, Member States could request to see the content of these office instructions, as the Secretariat had taken content from the Rules and put it into office instructions. However, in this case it could happen that the Secretariat could change the contents of office instructions and Member States would not know about this. The Delegation had no particular problem with this, but wished to highlight the fact and to note that it was not easy for Member States to check on what the contents of such office instructions actually were.

453. The Secretariat noted that the Rules, which were in the FRR, defined what needed to be done. As indicated, implementation was governed by lower level office instructions, and, as indicated, did not in any way diminish the internal controls. The Delegation's question was about documentation, if the Secretariat understood correctly. Office instructions would have to very clearly stipulate the types of documentation required, which would be what the Organization would be audited against. If the auditors, when doing their audit, would find that there was a noncompliance through the hierarchy of the regulatory framework, they would then raise this issue at that time. The update of the FRR formed part of a routine update and the Secretariat did this because there were changes which were necessary. In a manner of speaking, it was a housekeeping task to keep the regulatory framework in step with what the Organization did. The hierarchy of the regulatory framework was explained as starting with Regulations, which were subject to Member States' approval, where changes could only be made with Member States' approval. Then next level were the Rules, which the Director General could update and change but would have to disclose all such changes, as could be seen in the current proposal as well. Following the level of the Regulations and Rules, were Office Instructions, which comprised the procedural aspects of how the Organization conducted business. It was best practice in the establishment and design of regulatory frameworks to separate the high-level Regulations and Rules from detailed procedural aspects, which was the hierarchy needed in the regulatory frameworks. Then there were operating manuals, which would go into a lot more detail. However, when, as has been explained, the auditors would look at compliance, they would look at the entire hierarchy of Regulations, Rules, office instructions, and procedural manuals or operating manuals to assess whether the Organization was in compliance. The Secretariat further highlighted that office instructions, policies and procedures were continuously updated and published on the Intranet, and were available to all staff and managers who had to be guided by them. The Secretariat also reiterated that, should Member States require to see any office instructions, it would be pleased to provide these, but highlighted that there was a multiplicity of office instructions that were put in place as the Organization conducted its business and operations.

454. The Chair indicated that he did not know how satisfied delegations were with the explanation provided by the Secretariat, as his understanding from the interventions of Group B was that they were not comfortable recommending these changes to the GA, specifically the ones regarding the *ex-gratia* payments and the change to Rule 105.22. In the Chair's views, the Secretariat had tried to explain the logic behind the proposal, and had also shown flexibility on reintroducing the limit of the *ex gratia* payments to what was seen as necessary. The Chair wished to proceed with the explanation on the other issue of Rule 105.22, if the Delegation of Spain and Group B were comfortable with the explanation received by the Secretariat, or whether they wished to have the detailed elements remain part of that Rule.

455. The Delegation of Mexico said that it had been following the debate very closely, in particular the arguments with respect to Rule 105.22. It noted that it fully understood the different treatment given to the financial Rules and Regulations. It was clear that Rules were amended by the Director General and Member States were provided with the amendments for



purposes of transparency. The Delegation also understood from what the Secretariat had said that these changes simplified the regulatory framework, as they were transferred to office instructions. In the Delegation's view the text of Rule 105.22 could be left in its original version, which would not affect any subsequent office instruction. In any case, it was the Director General himself who could change it and submit amendments to the PBC. In the Delegation's view, this was more a question of clarity for colleagues in Group B, and if it would not affect other internal documents. If it would not be amended, it would not have any effect. However, since the Delegation did not originate this proposal, it wished to see what its colleagues in Group B thought.

456. The Chair indicated that the problem of keeping this description in multiple places was that it caused an administrative burden because whenever there was a proposed change, there would be different things that would have to be adjusted. In order to be constructive with the time he indicated that he would allow for informal consultations regarding the matter. The Committee should start tackling the next agenda item and revert to this item afterwards.

457. Following consultations, the Chair enquired whether progress was made regarding the agenda item 18. He invited the Secretariat to explain what was discussed informally regarding the proposed amendments and the reservations that Group B had had regarding the two proposed changes.

458. The Secretariat reported that there appeared to be agreement that the limit for *ex gratia* payments would be retained, but with the change in limit from 20,000 to 50,000 Swiss francs. On the other question, the Secretariat believed that it had been resolved based on the explanations provided, and the Delegation of Spain and Group B appeared satisfied with the explanations.

459. The Chair opened up the floor for any other further comments regarding the apparent compromise regarding this topic. He then proceeded to read the proposed decision paragraph, with the addition of the following sentence to Regulation 5.10: "*The total amount of such payments shall not exceed 50,000 Swiss francs in any given financial period.*"

460. The Program and Budget Committee recommended to the WIPO General Assembly to approve Regulations 2.8, 5.10, 5.11, 8.1 and 8.9 as amended in document WO/PBC/22/10, with the addition of the following sentence to Regulation 5.10: "The total amount of such payments shall not exceed 50,000 Swiss francs in any given financial period."

461. The Program and Budget Committee took note of the amendments to the Financial Rules listed in paragraph 5 of document WO/PBC/22/10.

**ITEM 19 PROPOSAL BY AUSTRALIA, FINLAND, HOLY SEE, NEW ZEALAND AND SWITZERLAND: PARTICIPATION OF REPRESENTATIVES OF ACCREDITED INDIGENOUS AND LOCAL COMMUNITIES IN THE WORK OF THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC): PROPOSAL FOR SUBSIDIARY FUNDING FROM THE REGULAR BUDGET OF WIPO**

462. Discussions were based on document WO/PBC/22/24.

463. The Chair opened the floor for discussions on agenda item 19 and invited the Delegation of Switzerland to present the proposal contained in document WO/PBC/22/24.

464. The Delegation of Switzerland introduced the proposal submitted by Australia, Finland, Holy See, New Zealand and Switzerland regarding the participation of representatives of accredited indigenous and local communities in the work of the IGC. It proposed to allocate up to a maximum amount of 60,000 Swiss francs under Program 4 to finance the participation of representatives of accredited indigenous and local communities in the IGC in 2015. The allocation should be drawn, where possible, from identified cost savings or efficiencies. The proposal aimed at contributing to the results of Program 4 because the presence and active involvement of the representatives of indigenous and local communities contributed to an improved understanding of the issues to be dealt with by the IGC. The Delegation stated that the details of the proposal had been explained at IGC 28 in July 2014 and the current proposal had taken into account the concerns which had been expressed during consultations held with Member States. The Delegation highlighted that the proposal did not aim at increasing the overall budget for the 2014/15 biennium or the budget for Program 4. In view of the limited amount, and according to the Secretariat, the contribution would not jeopardize the activities under Program 4. The proposal aimed at finding a subsidiary source of funding for funding representatives of indigenous and local communities *via* the Voluntary Fund, and no money would be transferred from the regular budget to the Voluntary Fund. In other words, the FRR of WIPO would be fully respected. The Delegation stated that the fears expressed by certain delegations regarding setting a precedent had been taken into account. It believed that the proposed mechanism would not create any precedent in the organization. The decision to fund representatives of indigenous and local communities would very clearly depend on the decision to be adopted by the Advisory Board of the Voluntary Fund. Regarding transparency, the proposal provided all necessary transparency regarding the use of the money and the proposed amount because the proposal respected all rules in the FRR. Information on the allocation would be included in the information to be sent to the IGC as part of the report on the Voluntary Fund. The Delegation, together with the other co-sponsors of the proposal, hoped that the proposal would be welcomed. In that way, the representatives of indigenous and local communities would be funded for IGC 29.

465. The Delegation of Brazil thanked the Delegations of Australia, Finland, Holy See, New Zealand and Switzerland for their proposal. The Delegation believed that the objective behind it was very worthwhile since those communities were, at the end of the day, the ones impacted by the decisions taken by the IGC. The Delegation very much regretted that the resources available in the Voluntary Fund for the participation of those communities had reached the level mentioned in the proposal. As for the details of the proposal, the Delegation was ready to support the initiative, mostly in light of its consistency with the DA Recommendations 18 and 42. It was essential, however, to ensure that the proposed changes did not affect the support provided for the IGC itself and for the participation of government officials in sessions of the IGC.

466. The Delegation of Finland, as a co-sponsor of the proposal, firmly believed that the proposal was a workable solution to the problem at hand. It was of utmost importance that all relevant parties were able to participate in the negotiations. They had been able to do so for many years thanks to the donations of a number of Member States since the creation of the Voluntary Fund in 2005. Indigenous peoples had been able to give insights to the IGC's work that no one else could. It would be a great pity if the IGC went on without their input. A simpler solution would be to receive commitments to the Voluntary Fund in the near future. But, regardless of repeated efforts, no funds had been donated. It was no doubt that hard economic times could be a reason. Finland had also been trying to find funds to donate to the Voluntary Fund, unfortunately without success. The proposal would be a short-term solution and would not form a precedent. Other committees did not have the same mechanisms such as the Voluntary Fund, which was unique in that respect. Therefore, the Delegation urged all delegations to support the proposal.

467. The Delegation of Iran (the Islamic Republic of) acknowledged the importance of the participation of the representatives of indigenous peoples and local communities. It thanked the

Delegations of Australia, Finland, Holy See, New Zealand and Switzerland for their proposal. However, there were some procedural and substantive ambiguities and concerns about the proposal. The expenses would be accommodated within the existing resources of the regular budget for Program 4, while those had been allocated to the regular intersessional and regional meetings for fulfilling the mandate of the IGC on finalizing the text(s) within the 2014/15 biennium and deciding on convening a Diplomatic Conference. Allocating a budget for the participation of non-governmental participants would make a bad precedent in the Organization. The IGC had not yet reached any consensus on the definition of TK, TCEs and GRs and many countries like the Islamic Republic of Iran had no indigenous peoples. Additionally, the role of States to nominate the competent representatives of local communities had not been specified in the proposal.

468. The Delegation of Mexico thanked the Delegations of Australia, Finland, Holy See, New Zealand and Switzerland for submitting the important proposal regarding the work of the IGC. It noted with concern the financial state of the Voluntary Fund and it was determined to work on it in a creative and practical way which would ensure the participation of the representatives of indigenous communities so as to enrich the discussions in the IGC. The Delegation noted that the approved budget for Program 4 for the 2014/15 biennium had been reduced by 116,000 Swiss francs as compared with the previous biennium. It was essential to have an assurance that the proposal would not affect in any way the activities under Program 4. Along those lines, the Delegation asked the Secretariat whether the allocation of 60,000 Swiss francs to the Voluntary Fund would jeopardize those activities in accordance with its original work plans. Furthermore, in view of the fact that the contribution to the Voluntary Fund would come from the regular budget, it supported those delegations who had expressed concerns about the precedent that might be set in respect to the budget and transfer of resources. The Delegation could go along with the proposal, provided that the allocation should not set a precedent, would not cause any increase in the approved budget for the 2014/15 biennium, and would not prejudice in any way the work of the IGC. It considered that the allocation should be submitted for the approval of the IGC, provided it did not affect Program 4. Moreover, the Delegation noted that the proposal included the fact that the allocation could be drawn from identified cost savings or efficiencies. That was in accordance with earlier discussions on some identified areas where the Secretariat could make administrative savings based on efficiency.

469. The Delegation of Switzerland believed that a number of different points which had been raised had already been replied to in the proposal. It was willing to work with the delegations on the other points. The Delegation had really tried to avoid creating a precedent in the proposal, which was one of the key ideas. It was not proposing to increase the existing budget. There had been some questions on who would be funded. The Advisory Board of the Voluntary Fund would meet each time during the IGC sessions, consider the CVs of persons applying for funding, and determine who would be eligible for funding for the next session. Representatives of indigenous and local communities presented in the meeting of the Advisory Board as well. That was actually the way in which the Voluntary Fund operated. Procedures were defined in the Rules of the Fund. More specifically, the proposal was that, thirty days prior to each IGC session, the Secretariat would look at the Voluntary Fund and see if there were any funds in it. If there was enough funding for one person, the Secretariat would look at the person selected by the Advisory Board of the previous session and that money would be used for that person. It would not be the Secretariat deciding who was going to get the funding. That would be done in accordance with the decisions taken by the Advisory Board. The Delegation hoped that it had replied to the question raised by the Delegation of Iran (Islamic Republic of). The Rules of the Voluntary Fund were available and were very transparent and very specific about the way decisions could be taken. The Delegation would continue to discuss specific points with the delegations that had concerns.

470. The Chair invited the co-sponsors of the proposal to hold consultations with interested delegations. The item was suspended and re-opened the following day.

471. The Delegation of the United States of America strongly supported the active participation of indigenous groups in the IGC and in the text-based negotiations in the IGC. Notwithstanding the important need to have relevant parties at the table, the Delegation could not support a proposal that would allow WIPO's core budget to pay for that activity. As a matter of principle, funds contributed to the Voluntary Fund were to be set apart from the regular budget, and Member States were welcome to contribute freely to the Fund, but at no time did one need to support the other. Efficiency gains should be reinvested in the core budget in accordance with guidance from Member States. The Delegation expressed the United States' of America intention to be a contributor to the Fund. It was pleased to announce a pledge of 10,000 US dollars, subject to the USPTO and the State Department working out the details. It hoped to accomplish that as quickly as possible. The Delegation valued the participation and the contribution of indigenous and local communities in the IGC and called on other Member States to contribute to the Voluntary Fund. In addition, the Delegation suggested that the Secretariat provide an estimate on the amount of yearly funding made by voluntary contributors to the WIPO Voluntary Fund. That estimate was to help ensure that the Fund was financially self-sustaining to better address the lack of funding. The Delegation suggested that the Secretariat conduct outreach to Member States to obtain additional donors.

472. The Delegation of Germany supported the statement made by the Delegation of the United States of America.

473. The Delegation of Chile stated that it had supported the proposal when it had first been proposed in the IGC. It considered that the lack of funding for the participation of indigenous communities was an issue that ought to be resolved. In some way, the proposal was trying to resolve the legitimate concerns that had been raised. However, it understood that some delegations still had doubts about it. It was grateful to the Delegation of the United States of America for having an alternative solution. In any case, Member States had to find a solution in the future and the Delegation was prepared to participate in that process.

474. The Delegation of Sweden, in support of other delegations, mainly the Delegations of the United States of America and Germany, stated that it saw a potential problem to use WIPO regular budget to finance external activities and wondered what consequences that might have in the future. It saw a risk that that would become a negative precedent for other UN bodies.

475. The Delegation of Indonesia, speaking in its national capacity, stated that it had studied the proposal carefully. It acknowledged that the participation and contribution of indigenous and local communities in the IGC sessions were undeniably vital. Their participation increased the credibility, transparency and relevance with the aim to finalizing the draft texts on genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs). It was quite unfortunate that the Voluntary Fund was exhausted with no immediate sign of replenishment. With regard to the proposal, the Delegation pointed out the following: (1) The current budget related to the IGC in Program 4 for the 2014/15 biennium could not be reduced in order to accommodate the allocation of subsidiary funding. The Delegation believed that the number of days for the IGC thematic sessions in 2015 should not be less than what had been the case in 2014. Moreover, the allocated budget in Program 4 should not preclude the possibility of having a Diplomatic Conference in 2015. Therefore, it was difficult for the Delegation to accept subsidiary funding drawn from the regular budget under Program 4. The proposal did not guarantee a long term solution to funding indigenous and local communities in a predictable and sustained manner. Caution was therefore needed. Taking any hasty decision that would set a precedent and diminish the process of the IGC in the long run should be avoided; (2) With regard to paragraph 4 of the proposal which stated that "*the allocation would be drawn from Program 4, without an increase in the existing budget and, where possible, from identified cost savings and efficiencies*", the Delegation requested the Secretariat to provide the PBC with the details of the amount of savings that could be utilized for funding the participation of accredited indigenous and local communities in the IGC in 2015. Further, the Delegation wished to share some thoughts with a view to resolving the financial difficulties of the Voluntary

Fund. It suggested cooperation between WIPO and the World Bank in the area of GRs, TK and TCEs. The World Bank had programs that supported indigenous knowledge for development, including in the area of GRs. WIPO needed to cooperate with the World Bank with regard to funding mechanisms that supported NGOs and other organizations of civil society. The Delegation requested the Secretariat, especially the Legal Counsel, to explore the possibility of establishing an “Agreement on Financing the Participation of Accredited Indigenous and Local Communities” in accordance with the following provisions of existing international instruments: (1) Articles 55 and 56 of the UN Charter that provided for a legal obligation for the UN Member States and the UN specialized agencies, including WIPO, to cooperate in a development-orientated way; (2) Articles 1, 2 and 16(a) of the Agreement between the UN and WIPO signed in 1975 that stipulated the status of WIPO as a specialized agency of the UN System and called upon WIPO to cooperate on budgetary and financial matters with other international organizations; (3) Section 8 of Article V of the Agreement on the Establishment of the International Bank for Reconstruction and Development as amended in 2012 that stipulated its relationship with other international organizations; and, (4) the Development Agenda Recommendations 18 and 40 requesting Member States to “*accelerate the process on the protection of GRs, TK and folklore*”, and WIPO to “*intensify its cooperation on IP related issues with UN agencies*” in order to “*strengthen the coordination for maximum efficiency in undertaking development programs*”. Therefore, the Delegation suggested that the PBC recommend to the 54<sup>th</sup> Series of Meetings of the Assemblies of the Member States of WIPO in September 2014 that the Director General of WIPO be tasked with the following: (1) to report to the 54<sup>th</sup> Series of Meetings of the Assemblies of the Member States of WIPO on findings regarding the establishment of an Agreement between WIPO and the World Bank on the financing of the participation of accredited indigenous and local communities; and (2) to follow up on those findings with the approval of Member States before IGC 29 in 2015. In order to implement the DA Recommendations, the Delegation further proposed to establish an annual WIPO Pledging Conference to be convened during the WIPO Assemblies. The Delegation recommended that its proposal be further discussed during the 54<sup>th</sup> Series of Meetings of the Assemblies and a decision be taken before IGC 29. The Delegation added that what it had suggested was meant to ensure predictable and sustained funding for the participation of accredited indigenous and local communities in the IGC. It welcomed any comments and inputs from delegations. The Delegation finally thanked the Delegation of the United States of America for having a similar position.

476. The Delegation of Switzerland thanked all delegations for their comments, some of which might not have been expected. However, the Delegation thanked the Delegation of the United States of America for its statement and for the information that the United States of America was going to put money into the Voluntary Fund. That had also been one of the purposes of the proposal, which was to see whether any funding could be stimulated for the Voluntary Fund because requests for additional funding had been made for years and there had been no further contributions. Regarding other proposals that had been made, for example, on finding external partnerships, it believed that the Secretariat had already tried without much success. Perhaps the Secretariat could explain to the PBC everything it had done. The new contribution would only fund two persons for a two-week session of the IGC. The problem would remain if money could not be received very soon, and the proposal had been aimed at finding a solution for the next year. It had thought that the proposal would not jeopardize the funding of the IGC’s work. It wondered whether it would be worth for the Secretariat to explain in detail how 60,000 Swiss francs were going to be found. The Delegation wished to leave it to the Chair to decide whether agenda item 19 should be closed or continued.

477. The Chair invited delegations to reflect upon the proposals made by the Delegation of Indonesia and the Delegation of Switzerland and hold consultations (coordinated by Switzerland) with a view to preparing a draft decision. He then suspended the agenda item.

478. The Chair re-opened the agenda item read out the proposed decision text arrived at following the consultations: “*The PBC recognized importance and value of the participation and*

*contribution of representatives of indigenous and local communities in the work of the IGC. Discussions were held on the proposal made by Australia, Finland, Holy See, New Zealand and Switzerland and titled 'Participation of Representatives of Accredited Indigenous and Local Communities in the Work of the Intergovernmental Committee Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC): Proposal for Subsidiary Funding from the Regular Budget of WIPO' and divergent views were expressed on the proposal. Some members expressed interest and views on predictable and sustained funding for the participation of accredited indigenous and local communities in the work of the IGC. Recognizing the importance and value of the WIPO Voluntary Fund for Accredited Indigenous and Local Communities, the PBC commended the efforts that the Secretariat made so far for finding new sources of contributions to the Voluntary Fund and encouraged the Secretariat to continue these efforts."* The Chair pointed out that since the aim was to have a decision on every agenda item, the proposed text would resolve item 19 with a sort of "soft decision", which welcomed the efforts of the Secretariat and gave encouragement to the Secretariat, which was the element collectively agreed by consensus, because there was no consensus on the other elements of the discussion. The Chair put the text forward for discussion and reflection until the following day.

479. The Chair reopened discussion on decision text for agenda item 19 and re-read the text proposed the previous day. There were no comments from delegations and the following decision was adopted.

480. The Program and Budget Committee (PBC) recognized the importance and value of the participation and contribution of representatives of accredited indigenous and local communities in the work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

481. Discussions were held on the proposal made by Australia, Finland, Holy See, New Zealand and Switzerland entitled "Participation of representatives of accredited indigenous and local communities in the work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC): proposal for subsidiary funding from the regular budget of WIPO" and divergent views were expressed on the proposal. Some Members expressed interest and views on predictable and sustained funding for the participation of accredited indigenous and local communities in the work of the IGC.

482. Recognizing the importance and value of the WIPO Voluntary Fund for Accredited Indigenous and Local Communities ("the Voluntary Fund"), the PBC commended the efforts that the Secretariat made so far for finding new sources of contribution to the Voluntary Fund and encouraged the Secretariat to continue these efforts.

## **ITEM 20 GOVERNANCE AT WIPO**

483. Discussions were based on background documents WO/PBC/18/20, WO/PBC/19/26, WO/PBC/22/20 and WO/PBC/22/26.

484. Opening agenda item 20, the Chair recalled that it had been decided that the "Proposal by the Delegations of Belgium, Mexico and Spain: Increasing Efficiency in WIPO Meetings" (document WO/PBC/22/26) would also be discussed under this agenda item. The other relevant documents were: "Governance in WIPO" (document WO/PBC/18/20), as well as the JIU report, "A review of Management and Administration in the World Intellectual Property Organization" (document WO/PBC/22/20). He also recalled that, at its 44<sup>th</sup> session in 2013, the WIPO GA had discussed the issue of governance at WIPO (as contained in document A/51/1), including the proposal presented by the African Group. Secondly, it had requested the Secretariat to organize an information meeting with the JIU regarding its report on the review of management and administration of WIPO, prior to the 22<sup>nd</sup> session of the PBC; and thirdly, it

had invited the Member States to submit proposals on governance at WIPO to be discussed at the 22<sup>nd</sup> session of the PBC. Furthermore, the JIU had recommended that the “*WIPO General Assembly should review the WIPO governance framework, as well as current practices with a view to strengthening the capacity of governing bodies to guide and monitor the work of the Organization. In doing so, Member States may wish to consider in their deliberations the options suggested in this report*”, which was the recommendation 1 of the JIU. In connection with the decision to invite Member States to submit proposals on governance at WIPO, the Chair was not aware of any such proposal having been made other than those which had been considered by the PBC at its 21<sup>st</sup> session. The Chair called on Member States to note that a number of suggestions were included within Section 2 (entitled “Governance”) of the JIU report (JIU/REP/2014/2), which they might wish to consider under the agenda item. He reminded delegations that the proposal contained in document WO/PBC/22/26 would also be dealt with under this agenda item. As there were no other issues at hand to discuss, he called on the Delegations of Belgium, Mexico and Spain to present their proposal.

485. The Delegation of Spain expressed its thanks to the Chair and to the delegations who in their previous statements had already expressed interest in some of the measures included in the proposal being presented. On the information seminars and methods of work, the Delegation said it would give the floor to the Delegation of Belgium to present that item and respond to any questions in more detail. The Delegation recalled that it had already talked to Member States about the reasons as to why they had put these measures forward. It observed that over the last few years there had been an increase in the number of meetings and the number of documents, which had consequences not only for the budget but also implications for Member States, including difficulty in keeping up with the volume of work, the speed at which it was done, resulting in a certain amount of psychological stress and exhaustion. It observed that, often, meetings were not positive. Sometimes they were counterproductive because there was not enough time for the participants to digest the results of a previous meeting. It noted that this was a trend that did not necessarily lead to better results, and gave a practical example of the committees’ meetings that ended after midnight. Inevitably when that happened, Member States had ended without an agreement. The Delegation also pointed out that, on some occasions, there had been a change of attitude among delegations when they had realized that “the end was near”, so to speak, and they had to reach agreement. The Delegation explained that one of the suggestions was that if Member States reduced the length of a meeting, they might get that change of attitude a little bit earlier. In other words, delegations would not have quite so much time in which to perhaps change their positions. The Delegation said the proposal suggested that meetings end at 6 p.m. and, exceptionally, they could run until 7 p.m., if the Chair was of the view that delegations were nearing an agreement. However, what the Delegation did not want to see was meetings going on interminably, as ultimately they did not lead to any positive outcome. On the overlap of official meetings, the Delegation highlighted the scheduling problem i.e., committees’ meetings ending almost at the same time as the next committee began. That did not leave delegates any time to rest or to make proper preparations for the next meeting. It said that in order to find a solution to a specific problem in a given committee, it was sometimes the easiest solution to increase the number of meetings, which was properly understandable, particularly if delegations felt that their goal had not been attained. But, if the same was done for all the committees, the problem was that the number of meetings rapidly spiraled out of control. What the Delegation wished to happen was: taking 2014 as a reference year, take the number of meeting days and try not to exceed that number in the following year i.e., 2015. The Delegation explained that it was not saying that Member States should freeze the number of meetings or the number of days, but that they should try to set a ceiling so that they did not fall into the trap of gradually, almost without noticing it, increasing the number of meetings and/or days. On its proposal number 4, i.e., to reduce the customary duration of meetings from five business days to four, the Delegation reiterated that this would not affect the committees which had a specific length set by a GA decision, such as the IGC. The Delegation urged the Secretariat to continue its efforts to cut down on the average length of documents because that, in itself, would make life easier for delegates. They would be able to read and assimilate

the content of documents more easily. The Delegation also wished to have a trial year to see whether these measures produced a satisfactory result. Member States would then look at the result and decide whether they wanted to extend, keep, or get rid of the measures. The Delegation said that, as Member States might have noted, the proponents had made a specific effort to look at what was possible. They had listened to what other delegations had to say and they had been participating in many committees over the last few years. Those were the short-term measures, which the Delegation felt could be of benefit to all Members. They would also help Member States make a good start to the ongoing debate on the reform of the Organization, because if the measures worked, they would prove that Members were capable of making positive change in reaching agreement.

486. The Delegation of Belgium thanked the Delegations of Mexico and Spain, the co-authors of the proposal, and the delegations that had already supported the proposal in their earlier interventions. The Delegation wished to provide further background, in line with what had been said by the Delegation of Spain. The Delegation recalled that, three years prior, its view had been that WIPO was a little bit like a forest: WIPO had provided a lot of innovative oxygen and what one got was never black or white but one always got it in several shades and, from time to time, even in light brown, as the splendid new conference hall attested. The Delegation noted, however, that WIPO had, of late, become a little bit of a jungle. Firstly, the number of committees and intersessionals kept growing, sometimes without a lot of tangible results. It was therefore up to Member States to resolve the matter. Secondly, WIPO was dedicated to innovation and the rule of law. However, the proper rules, in a clear and written form, were sometimes absent, not codified, sometimes contradictory and often outdated. Therefore, it did not come as a surprise that Member States, more often than not, stood to benefit from the presence of the WIPO Legal Counsel to explain or to interpret how to apply an uncodified rule. The Delegation welcomed and highly saluted the Legal Counsel's presentation, but added that more legal clarity in advance of the meetings, and not during the meetings, was needed. It said that Members were looking forward to leaving the gray field that they were entering. That field seemed to be not entirely within the jungle but somewhere where the big bad wolf of legal clarity liked to hunt in, and it was one matter that should be clarified. The Delegation said that one or more legal seminars organized by the Secretariat would be timely and should not be costly. Member States would only need to involve the legal departments to clarify a couple of items and take these clarifications once and for all, hopefully, in a formal way for the benefit of all. On the type of topics identified, the Delegation wished to keep them open-ended. It said that it would welcome a first seminar whereby potential legal topics for discussions were identified, not only by Member States but maybe also by the Secretariat itself. In terms of duration, that would depend on the number of topics identified. That was why, together with the Delegations of Mexico and Spain and those delegations that wished to support them, the Delegation wanted to do a little bit of procedural and pragmatic gardening, with a simple proposal, to get the IP forest back.

487. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, thanked the Delegations of Belgium, Mexico and Spain for the proposal. The efficiency of WIPO meetings had been decreasing in recent years, and CEBS Group considered the suggested short-term measures as highly interesting and as measures that could yield results for all Members, even more so for the smaller delegations of which the Group was mostly composed. The Delegation noted that the proposed measures could improve the current situation which was dire in its view. It expressed its readiness to work with the proponents on the ways and means of translating the proposals into practice, but stressed that it would be less interested in engaging in the never ending so-called negotiations. In the case of the proposed review of the working methods, the Group expressed interest in engaging in discussions and welcomed the proposal on the seminar. It stated that, if the proposal was approved, the effect of the measures, both the short-term and the long-term ones, should be regularly monitored.

488. Speaking on behalf of the African Group, the Delegation of Kenya said that before commenting on the proposal by the Delegations of Belgium, Mexico and Spain, it wished to say



a few words regarding the issue of governance at WIPO. The African Group welcomed the JIU recommendation, which called on the GA to review the WIPO governance framework as well as the current practices, which would lead to strengthening the capacity of the governing bodies to guide and monitor the work of the Organization, including the options suggested in the report. It recalled that the African Group had made proposals in that area, as had indeed other Member States. In this regard, the current proposal by Spain, Belgium and Mexico, should be considered as part of the proposals made by Member States. In the Delegation's view, Member States should have a holistic judgment of all the proposals which had previously been made to give the subject a comprehensive treatment. The African Group did not think that the Committee would be able to give due consideration to all proposals on the table, and go through all the complexities, carefully considering all the issues which needed to be taken into account within the time frame set out for the Committee. The Delegation therefore recommended that Member States have an open-ended working group or informal consultations, including the seminar suggested in the proposal, to be able to isolate issues and agree on the way forward. The Delegation advised Member States to have a pragmatic way of dealing with the issues, so as to come up with a well-informed recommendation on how to move forward. The African Group did not enjoy fruitless meetings and noted that part of the Group, which was overstretched at times in terms of meetings, felt the need to be pragmatic and effective. In its view, Member States should think of a mechanism on how to look at all of the issues. It observed that very concrete proposals and options had been put forward by the JIU in its report, covering some of the very pertinent issues related to the legislative or the legal gray areas mentioned by the Delegation of Belgium. The African Group felt that if Members examined some of the JIU proposals in this particular area, they would have a way forward. It noted the importance of the JIU report, with which it was very happy, and which cleared some of the gray areas and gave solutions to some of the issues. The Delegation added that it was not fixed, in terms of what would be the end product, but was asking for a systemic process and said that it would be open and willing to engage in all the proposals on the table, including seeing the best way forward.

489. The Delegation of Brazil thanked the Delegations of Belgium, Mexico and Spain for their proposal, and for the efforts to suggest ways to overcome some practical problems faced by Member States in WIPO. The Delegation believed that, in general, the proposal captured these difficulties, and it was a good starting point for the discussion. Before making specific comments on each of the seven suggestions, the Delegation wished to say that it was ready to engage constructively in the discussions, but it emphasized up front that the results should be limited to the procedures to increase efficiency in WIPO meetings, as stated in the title of the proposal. The Delegation said that, in the end, the results must be absolutely neutral in the sense that they did not interfere with the priorities set for the matters discussed in the committees, nor in the proportionality of the time allocated to different subjects. Furthermore, it said that the outcome of these discussions must not be interpreted as an obstacle for holding intersessional meetings approved by the competent bodies in WIPO. Commenting on proposal 1 in document WO/PBC/22/26, the Delegation agreed that placing a limit on the daily end-time of meetings would not compromise any overall results. It would only force Member States to increase efficiency. On proposal 2, the Delegation agreed that convening meetings back-to-back created an extra burden, especially for small delegations, mostly from developing countries. Since proposal 2 could help promote inclusiveness in the discussions, the Delegation fully supported it. Speaking on proposal 3, the Delegation believed that the idea of limiting the number of days of official meetings based on the experience of the previous year needed further reflection. It noted that Member States ran the risk of compromising some of the processes in the work done in some committees, notably, those of a normative nature. On proposal 4, the Delegation said that it understood the explanation provided by the Vice-Chair. However, the idea of reducing the duration of WIPO committees from five to four business days also needed further consideration, since it could bring about difficulties, particularly for the exchanges within the regional groups. It noted that, since delegates would have to come to Geneva for a four-day meeting, it did not seem prejudicial to ask them to remain for a fifth day. As regards proposal 5, the Delegation said that based on the report on the implementation of

the WIPO language policy, it seemed that the process of rationalization of the average length of official documents was already underway, and therefore did not see the necessity of starting a new discussion on this point. Concerning proposal 6, the Delegation stated that should the meeting arrive at a decision on the matter during the present session, it would agree with the idea of evaluating its implementation during the next PBC meeting. With respect to the proposal to start a series of informal seminars on organizational issues, the Delegation believed the very proposal as a whole highlighted that the Organization's agenda left little room for new events. It observed that despite the clarifications provided by the Delegation of Belgium, it seemed, at least as a first reaction, that the moment would not be convenient for its adoption.

490. The Delegation of the United Kingdom said that, given that Member States were discussing the governance at WIPO, it wished to commend the Chair for leading the meeting by example, in a very efficient and functional manner. The Delegation noted that more and more delegations were actually attending these meetings punctually, and wished to commend him for that. The Delegation expressed its support for the proposal by the Delegations of Belgium, Mexico and Spain. The proposal definitely included practical, pragmatic, simple, and noncontroversial solutions to the everyday problems Member States faced at WIPO as was adequately explained by the Delegation of Spain. The Delegation believed it could be a good outcome for the session, and added that Member States should also aim to continue contemplating other short-term measures that they could implement in WIPO. The Delegation said that it had one comment that related to the seminar. It saw the rationale for such an educational event, mainly for colleagues in Geneva. However, the Delegation would prefer to have a more general title, something picking up on issues such as the terms of reference, other procedural issues in WIPO, such as conclusions of meetings, Chair summary, as well as how Member States could tackle the issue of setting agendas in advance. It observed that plenty of legal issues could be tackled if the title of the seminar was more general: that would be something its Delegation would fully support. It said that having listened to some delegations about option 4 of the proposal, it understood that for delegations that were further away from Geneva this could cause a bit of a problem. Therefore, the Delegation was willing to discuss how an appropriate solution could be found. In conclusion, the Delegation said that it was looking forward to agreeing to the short-term measures and having that as an outcome of the session.

491. The Delegation of Iran (Islamic Republic of) believed that the issue of governance required a great deal of attention on behalf of all Member States. WIPO governance bore principles of equality, transparency and equal representation in all sectors. The Delegation wished that the PBC achieve consensus based on the recommendations made, allowing WIPO to move forward on the issue. This was a proposal that would study the need to have additional governance structure, bearing in mind current structures. The Delegation believed that the proposal did not contradict other proposals made by the African Group and the Development Agenda Group. There were several proposals before Member States, which was why the Delegation was very strongly in favor of having one day dedicated entirely to the matter during the next PBC. Such time could be used very fruitfully and would allow delegations to address different proposals and options on the table, not only those made by any specific group of countries. Having done that, Member States could come up with specific concrete proposals that could be presented at the next GA. The Delegation also wished to suggest the establishment of an *ad hoc* working group to address WIPO governance and to study the different proposals on constitutional reform. In fact, the idea of establishment of a working group was not new. Many Member States, including Group B, had proposed the establishment of a working group on constitutional reform in 1998 or 1999. Regarding the proposal made by the Delegations of Belgium, Mexico and Spain, the Delegation wished to express its thanks for the proposal, and shared the concern raised with regard to the efficiency of WIPO meetings and the need to achieve the best possible outcomes for the meetings in the context of limited resources. The Delegation was of the view that, regrettably, there were a number of shortcomings regarding many issues in WIPO, in general. The situation had pressed Member States to come up with more tangible results. There was an urgent need to review the existing

situation and consider it in a more sustainable way. The efficiency of the Organization needed more attention by Member States. In fact, the problem was that the lack of mutual understanding and the low degree of constructive and meaningful interaction had brought Members to the point where they were questioning the efficiency of the Organization.

492. The Delegation of South Africa expressed its support for the statements made by the African Group and the Delegation of Brazil. The Delegation also thanked the Delegation of Belgium, Mexico and Spain for their interesting proposal related to the key aspects of governance. The proposal was part of the larger debate on governance issues as it made several helpful suggestions on the effectiveness and efficiency of WIPO. The African Group had tabled a proposal on governance during the previous PBC session, and several Member States had provided written responses on the governance of WIPO which had yet to be substantially discussed. There were several interesting suggestions in the proposals which deserved further examination and debate. Some of them were from the Delegations of Monaco, United Kingdom, Japan, Australia, the DAG, the African Group, the United States of America, Republic of Korea, Germany and France. These suggestions included frequency and duration of meetings, which might be at odds with the suggestion put forward by the proposal to limit committee meetings from five to four days. The Delegation recalled that at the recent SCCR meeting, Member States had an hour on the last day to discuss education and had made limited progress on this very important issue for South Africa and other developing countries. With regard to reducing the average length of official documents, the Delegation realized that it would lead to cost-saving benefits and might lead to a more succinct presentation of pertinent facts. However, it wished to state that *verbatim* reports should remain, no matter how long they were. The Delegation welcomed the proposal to hold an information seminar. It noted that this would provide an opportunity for information sharing, discussion and debate. However, it stated that the seminar should include all the proposals on the table, including those contained in the responses submitted by several countries that had been mentioned previously, as well as some of the options proposed by the Delegation of the United Kingdom. The Delegation expressed its willingness to engage constructively in any discussions on governance.

493. The Delegation of India thanked the Delegations of Belgium, Mexico and Spain for their proposal on increasing efficiency of WIPO meetings. It hoped that sufficient time would be devoted given to this agenda item, so that the proposals made in addition to those on the table could also be discussed. The Delegation wished to share some of its views and comments on the short-term measures identified in the current proposal. The Delegation opined that reducing the number of days of meeting to four days would seem impractical, particularly in the work of the committees identified in the normative area. In the committee meetings where draft treaties were discussed, delegations comprised capital-based negotiators. During those meetings they had an opportunity to meet with their counterparts from other capitals and wanted to utilize their five-day stay in Geneva. The Delegation observed that negotiations and the exchange of views in the UN organizations could not be replaced by any other mechanism. The Delegation therefore did not see limiting of the duration of meetings as a real solution, because if Member States wanted to achieve a given target they had to have the time to explore all the ways and means. They could not be restricted by the imposition of an artificial time-limit. The Delegation noted that while in some committees it could be practical to implement it, in others it might not be at all. It also noted that WIPO had already taken steps towards reducing the length of official documents. Regarding the information seminar, the Delegation did not think that it was required at this time. What Member States needed was a proper dissemination of information regarding all the existing rules and regulations on the functioning of groups and committees. WIPO could provide those in a kit distributed to all delegations upon their arrival. The Delegation recalled that WIPO already organized a training session for newcomer diplomats, during which such information could be disseminated. The Delegation also wished to take the opportunity to highlight some of the other relevant proposals, particularly those regarding the effectiveness of the CoCo. The JIU report (and maybe the IAOC as well) had previously suggested that there might not be a need for a new body, but that Member States had to effectively utilize the existing WIPO bodies, including the PBC and the CoCo, which should hold regular meetings so

that they could take up all the agenda items, in a transparent manner and with the participation of all Member States. The Delegation was of the view that the Chair needed to guide Members on how they could have further consultations, in informal or formal sessions in the GA or the next PBC.

494. The Delegation of Japan, speaking on behalf of Group B, believed that the discussion on the improvement of the Organization should be based on the concrete and actual problems which Member States came across, and should not be done merely for the purpose of “change for the sake of change”. Additionally, changes could be justified only if the Organization was not functioning well. Group B could not agree to significant changes in the structure of governance of WIPO at this point through creation of new bodies, such as new executive and advisory bodies. With respect to strengthening the existing bodies such as the PBC and the CoCo, the Delegation said it was not against the general direction to strengthen the governance structure. The governance of the Organization had been clearly improved through results-based management and the Strategic Realignment Program. At present, efforts should be refocused to the discussion based on the actual and the concrete problems in the field, if any, rather than continuing discussion on how to change the structure without substantive reason to justify the changes. Group B reiterated that the discussion should be based on the actual problems, as pointed out in the JIU report. The first one was the specific terms of reference document, in which the mandate and the functions of the PBC were consolidated (paragraph 27 of the JIU report). The same could be done for the CoCo. The second was a comprehensive document linking to governance framework of the Organization (paragraph 8 of the JIU report). With respect to the proposal by the Delegations of Belgium, Mexico and Spain (document WO/PBC/22/26), Group B appreciated the efforts to seek concrete steps to solve problems that delegations faced during their daily work. In this regard, Group B supported the elements listed as short-term measures and looked forward to seeing what could be learned by the Organization from those measures. Group B did not support the tendency to increase the duration of WIPO meetings and so that problem had to be tackled. As for the establishment of a working group, the Group was reluctant to support the idea to establish another formal body, which might overcomplicate the issue.

495. The Delegation of Canada expressed its support for the statements made on behalf of Group B. It also thanked the Delegations of Belgium, Mexico and Spain for their proposal. Generally speaking, the Delegation supported the use of effective and practical working methods which would enable delegations to use their resources in the best possible way. However, it wanted to see flexibility in the way Member States reacted because, for the Delegation, the most important thing was not necessarily to have good looking figures on the working methods, but to ensure that the working methods met the needs of each specific group or committee, taking into account their interests and the level of activity. Parameters and working methods could, and should, be adjusted and adapted so as to ensure optimal use of time and budgetary resources. The Delegation therefore reiterated its support for the proposal tabled by the Delegations of Belgium, Mexico and Spain.

496. The Delegation of Chile wished to echo what had been said by the Delegation of the United Kingdom about the excellent way in which the Chair had been steering the discussions. Turning to the proposal by the Delegations of Belgium, Mexico, and Spain, the Delegation said that it shared the principles that inspired the proposal. It also agreed with what the Delegation of Brazil had said about options 1 and 2. As for option 3, the Delegation noted that it was similar to the others, but wondered whether it might not cause a problem with specific future needs, the nature of which was not known yet. It suggested saying “*taking into consideration the maximum number of days of official meetings of the previous year*”, but taking out the reference to “*should not be exceeded*”. Commenting on option 4, it said that if delegates from a capital travelled for an additional day, that would not necessarily mean additional expenditure. The Delegation suggested that Member States could look at it on a case-by-case basis, rather than stipulate a general meeting length rule applicable to all committees. Some delegations might still have a certain number of doubts about the issue. The Delegation wondered whether

this could also be discussed during the regular briefings for Member States. Regarding briefings, the Delegation believed that the idea of disseminating information in a toolkit would be a good idea. It was a question of finding a way which would enable everybody to be up to speed with the rules and procedure applied to the way in which meetings were organized and run.

497. The Delegation of the United States of America supported the statement made by the Delegation of Japan on behalf of Group B. It also wanted to have it noted that the comments it had made with respect to the proposal by the Delegations of Belgium, Mexico, Spain, the JIU report and the Secretariat comments, should also be placed under this agenda item. It stated that it supported the proposal by three Delegations and appreciated the responses they had given regarding the questions specific to the seminar. In continuing with the discussion on meeting efficiencies raised in the said proposal, the Delegation believed that those were important issues and that cost saving measures and refocusing the discussions on technical matters were important priorities for Member States if they wished to improve the well-being of WIPO. To reiterate its idea of reducing the number of committee meetings to one session in 2015, the Delegation suggested that it be spaced out evenly throughout the year. The approach would be to decrease the number, so as to decrease the amount of funding spent on log jam meetings, and to create more issue focused discussions in those committees. For example, the Madrid, the PCT and the Hague working groups, and the CWS currently met once a year. The idea of reducing the number of meetings was consistent with the present practice. This idea, however, would not prejudice any negotiations or ultimate results with respect to the IGC mandate - that would be separate. In terms of a schedule, the Delegation wished to propose that, e.g.: the Standing Committee on the Law of Patents meet early in 2015, possibly February; the Standing Committee on Trademarks, Industrial Designs and Geographical Indications meet earlier in that year too - the SCCR possibly in March, and the Committee on Development and IP in April. The Delegation was of the view that it was important that Member States were consistent in their messaging regarding costs and that was why it had taken some time to think about a schedule for 2015. It welcomed continued discussion and brainstorming on how to reduce committee meetings and the number of the committees in 2015 in particular. The Delegation recalled that this was a point that the Delegation of Kenya had raised and was being open to the idea of pursuing a mechanism to discuss this. It suggested that one approach might be to look at the JIU report and, in particular, recommendation 1, and having the GA Chair invite some discussions on the matter.

498. The Delegation of Barbados supported the initiative and the proposal by the Delegations of Belgium, Spain and Mexico, which would go a long way in addressing the organizational issues in WIPO. Those issues impacted significantly on small delegations and their ability to rationally cover the many important issues in WIPO. It believed it was a good first step and encouraged continuous efforts to streamline and to seek improvements in this area. The Delegation, however, believed that governance at WIPO had to be reviewed at a higher structural level. In this regard, recommendation 1 of the JIU report was of critical importance to improving the way WIPO worked. The Delegation believed that there was a fundamental weakness in the structure, given that there was basically no intermediate body between the Assemblies and the Administration, and that there should be such a body, which would be charged with ensuring that the mandates issued by the GA were implemented in a timely and effective manner. Member States might look at other UN organizations which had an executive board or some similar body that undertook that mandate. The Delegation looked forward to the debate and it remained available to participate fully.

499. The Delegation of the Republic of Korea joined the previous speakers in expressing its support to the Delegations of Belgium, Mexico and Spain for the proposals on the efficiency of WIPO meetings. It believed that adopting and implementing those proposals might be a small but a good starting point for the enhancement of WIPO meetings, and could be a long-term process which might have a positive impact on future WIPO governance.

500. The Delegation of Belgium said that it had been asked by the Delegation of France to express its support to the proposal made by the Delegations of Spain, Mexico and Belgium. One proposal should not necessarily exclude another on the table. In this respect, it welcomed the new addition, i.e., the proposal by the Delegation of India, which had been picked up by Chile, to use the information toolkit for new delegations. In its view, if the purpose of the toolkit was to encompass all WIPO rules, then the toolkit would encompass just the written rules, codified and not codified, and maybe existing. If it encompassed all three categories, the question was how Member States would be absolutely sure that there were no other principles or practices that did exist but had not been codified and hence would not be included in the toolkit.

501. The Delegation of Guatemala was grateful for the proposal tabled by the Delegations of Belgium, Mexico and Spain. It was a creative proposal that sought to render Member States effective and would ensure that the results they achieved were better. In its view, this was fully in line with the recommendations made by the JIU. As far as the proposed seminar was concerned, the Delegation agreed that this would be an extremely useful tool. The Delegation was therefore quite happy to continue discussing the matter.

502. The Delegation of Monaco endorsed the statement made by Group B and also thanked the Delegations of Spain, Mexico and Belgium for their proposal. It recalled that the Delegation of Belgium had described WIPO as a forest that was becoming a jungle. It was not sure whether Members were going to get back to the original forest with the proposal, but it would certainly be a tool to help Member States hack through the WIPO jungle more efficiently. The short-term measures would be simple and helpful because benefits thereof would be felt almost immediately. The Delegation said that Member States must have noticed that a proliferation of meetings lasting till the early hours of the morning could not enhance their effectiveness. It had actually rendered them less effective and less efficient, *inter alia*, because it had been difficult for delegates to prepare for meetings and also because this had increasingly overburdened the Secretariat. In its opinion, that was an excellent starting point for the discussions. On governance in the broader sense, the Delegation was sure that Members could always improve, and further adjustments could be considered. The report of the JIU provided several very useful indications as to how to do that. However, and along the lines of what was said by the Delegation of France on the previous agenda item, the Delegation was of the opinion that Member States did not want too much upheaval in the organizational structure of WIPO. It was rather a question of making better use of the tools they already had in step with their constitution and basic texts. The Delegation did not consider the setting up of a new governance body to be appropriate and it had reiterated that several times, including in the written submissions. Regardless of who was the chair, or the way Member States chose to continue the discussions, the Delegation assured the meeting of its active involvement. It stressed that, at this stage, it was not convinced of the need to set up a working group because there were several relevant fora in which the issue of governance could be discussed, particularly the PBC.

503. The Delegation of Australia expressed its continued support for the better functioning of WIPO committee meetings in line with the Belgium, Mexico and Spain proposal. In particular, meeting papers should be available well in advance of committee meetings and opening statements should be submitted in writing where possible and appropriate. The chairs should do their best to ensure that meetings run on the agenda. However, while the proposal to reduce the duration of meetings to four days, where appropriate, might increase the efficiencies, this would need to be combined with having a realistic approach to the priorities for the meetings' agendas.

504. The Delegation of China thanked the three Delegations for their proposal. It stressed that the efficiency of WIPO meetings was not only related to the functioning of the Organization but also to the participation level of Member States, whose interests were at stake. Therefore, the Delegation hoped that the Organization would take further measures to increase efficiency. For

example, the proposal mentioned the limit on the meetings' duration and the reduction of the volume of documents. In the meantime, the Delegation believed that the constructive attitude of Member States would also increase the efficiency of meetings. With regard to governance, it wished to reiterate that WIPO should take full advantage of the existing governance mechanism and enhance cooperation and coordination, so as to give full operating capability to the existing governance mechanism. The Delegation said that dual efforts should be avoided.

505. The Delegation of India responded to the question raised by the Delegation of Belgium. The Delegation believed that it was up to the Secretariat to explain what the existing codified rules were and what the practice was, because even after having participated in WIPO meetings for many years Member States were lost as to what the practices followed in WIPO were. In this regard, Member States could not ask the Secretariat to codify all those practices within a span of one month or so. The Delegation was of the opinion that this actually indicated the need for having a structured dialogue among Member States, with the guidance of the Chair of the GA and the CoCo, and also the involvement of the Director General and other senior management staff. This would enable Member States to be on the same level of knowledge, e.g., to know the rule under which regional groups functioned or the rules for rotation of chairs. The latter was a very basic question of governance and that was why Member States were all struggling on the issue for a long time. On the idea of including this kind of information/presentation in the training program for newcomers, the Delegation noted that whenever Member States proposed organizing an informal seminar, the issue of cost and budget would come up. Its suggestion would be to avoid any such discussion. Mechanisms already existed through which such information could be provided, and therefore the Delegation did not see the need for a seminar. The only requirement was to have a structured discussion, in any format, and make an attempt to informally make some rules which were really applicable and in line with the rules in other UN bodies.

506. The Delegation of Algeria welcomed the debate on the matter and wished to make some specific comments. One, the Delegation believed that governance should be defined as ensuring that the general structure of the Organization enabled Member States to guide its work. All Members' actions should stem from that definition. Second, the Delegation said that three elements needed to be taken into consideration: (i) ensuring that the rules and the procedures of the Organization were respected and that the Convention of the Organization was properly applied. This was the *sine qua non* for good governance; (ii) ensuring good transparency when it came to the work of the Secretariat, the work done by Member States and the work done by other bodies; and (iii) improvement of working methods. The Delegation was of the view that taking one element and leaving the other two aside would not be very productive. This was so because opting to improve working methods, for example, and not paying attention to the fact that there was lack of transparency or the fact that there was a real need to have better respect for the rules of procedure would be less sensible, in its opinion, and it would also be extremely counterproductive. It was not of the view that Members should leave any of those items out. When it came to governance, there was a need to take a comprehensive general global action. That was the Delegation's feeling, and it believed that it was also the position of the African Group, for which it expressed its support. Thirdly, the Delegation wished to observe that the *status quo* at the moment was not the best situation in which the Organization could find itself. As the JIU report stated, Member States themselves had developed irregular methods which were not in step with the WIPO Convention, particularly in the case of the PBC and the CoCo. According to the Convention, the CoCo was supposed to be the executive body, when, in fact, Member States had slid into a procedure where it was the PBC which was becoming such a body, for which it did not actually have a mandate in the Convention. According to the Delegation, that was a pretty flagrant irregularity which it believed needed to be looked at and seriously tackled. It reiterated that, unfortunately, Member States had slid into those irregular procedures and needed to pull themselves out again. The only way of doing that was not necessarily to reform the Organization, and the Delegation did not think anyone was talking about that, but to ensure once again that the rules were respected. It was on that basis that the Delegation supported the calls from other delegations to set up a working

group or an *ad hoc* group, or informal consultations, that would be chaired by the present Chair of the PBC, or if he preferred, by the Chair of the GA. That was the mechanism the Delegation wished to see, and believed it was necessary to get such a mechanism up and running. The Delegation wished to point out what seemed to be a contradiction in the position of Group B. It said that it had been open but the Delegation believed to have heard the Group B say that the Group was not in favor of such a working group, although the Delegations of the United States of America and Belgium seemed to express themselves in its favor. The Delegation observed that, unless it had misunderstood, there seemed to be a contradiction, and it requested that some light be shed on it.

507. The Delegation of Japan, speaking in its national capacity, appreciated the joint proposal submitted by the Delegations of Belgium, Mexico and Spain. The Delegation fully shared the concerns raised by the proponents regarding the situation in WIPO meetings and supported the proposal in general. It advised Member States to pursue making WIPO's administration as efficient as possible, which would eventually lead to not only cost rationalization but also to workload reduction for Member States. The Delegation strongly hoped that all Member States and the Secretariat collectively bring together their wisdom, with a view to pursuing a more effective and efficient way of organizing WIPO meetings. In response to what the Delegation of Algeria had said, it clarified that it had only mentioned "the form of a working group". There was therefore no contradiction between what it had said as a Coordinator, and what had been said by other members of Group B.

508. The Delegation of Belgium wished to echo what the Group B Coordinator had explained, i.e., that it did not see any contradiction. It suggested that Member States try to find a pragmatic way of dealing with the problem.

509. The Chair observed that there had been very interesting discussion and exchanges regarding the topic. He said that, taking time into account, and before venturing into an initial summary, he was of the view that this item could be further tackled in the afternoon session.

510. The Delegation of South Africa requested clarification from Group B, i.e., that it was not opposed to the format of the working group, and therefore wanted to know if that was the form or the scope. In the Delegation's view, a working group would be the form, as the scope would be what the group did.

511. The Delegation of Japan reiterated that it only talked about the format of the working group, and nothing more than that. It insisted that it did not mention the scope or anything along those lines. All it had said was that Group B had been reluctant to accept the form of the working group.

512. In reaction, the Delegation of Algeria said that perhaps it should speak in English. It clarified that the Coordinator of Group B had said that Group B had been reluctant about the form of a working group, and later it heard the Delegations of Belgium and the United States of America say that maybe it was a good idea to have a working group or informal consultations. It stressed that both Delegations had mentioned a working group, but their Group Coordinator said they had been reluctant, so it still needed to be corrected.

513. In response, the Delegation of the United States of America denied ever using the word "working group" and wondered whether there was not a translation issue. The Delegation said it was picking up on the overall conversation of a mechanism, and wondered if it was not the word "mechanism" that was misunderstood, as the Delegation's reference was to recommendation 1 of the JIU report. With respect to the possibility of having the GA Chair convene some discussions on a way forward with respect to governance, the Delegation's particular concern was committee structure, and the number of meetings in 2015. It stated that that would be its focus in that type of conversation, and added that it was picking up on a point that the Delegation of Kenya, the Coordinator for the African Group, had mentioned earlier.



514. The Delegation of Belgium said that whether it was one seminar or more, what was important for it was that they should be pragmatic. Its wish was to have a mechanism to deal with the problem, and it was open to any mechanisms, whatever form they took.

515. The Delegation of Kenya stated that the African Group was also flexible on the working group, informal consultations or any form of mechanism. The African Group wished to have the forum where it could discuss the issue in a comprehensive manner. The Group was not fixed on the name but on that it would be a forum to discuss governance. It reiterated its openness on how that could be done.

516. Opening the afternoon session, the Chair presented a broad summary of what he had heard during the discussions regarding this agenda item. He recalled that, at the request of the Delegation of Kenya, the specific proposal by the Delegations of Belgium, Spain and Mexico had also been added to that agenda item. He reported that from what he had heard that morning, discussion continued on the short-term measures in the proposal made by the three Delegations. The proposal had the support of many delegations, but there also were some very specific reservations regarding some points of the proposal, as well as some reservations regarding the element of the seminar and the way it was outlined in the original proposal. There was another, much broader view regarding that specific proposal i.e., that it should not be treated as a different proposal, given that the overall governance issue had been dealt with for some time, and there were other proposals on the table. He recalled that, as he had mentioned from the start, his initial statement would be to propose that Member States have an informal mechanism to have a Members-led discussion on a specific text that they could adopt as a decision regarding the topic. He added that, as he had also mentioned before, the PBC had two excellent Vice-Chairs who made themselves available for that work. Therefore, the Chair proposed that one of the Vice-Chairs start working on the issue to try to come up with a decision text that would give comfort to all of delegations. He was of the view that there were some possibilities of having a decision that would comprise elements of all the topics discussed during the morning's session: on the short-term measures and also on some kind of recommendation, an indication that PBC could give to the GA regarding assurances, borrowing from the expression used by the Delegation of Kenya, of a systematic process that would tackle the issue with the relevance and importance that it required. He was sure that not having a plenary discussion on this would help at that stage. He believed that a plenary discussion would be required once Member States had a proposal on a decision regarding the topic. The Chair's idea was that the membership move forward covering other items on the agenda. He added that he was also aware that the next item was incredibly important and, as he had heard from the Secretariat, Member States needed a decision regarding the definition on development expenditure. He observed that if they moved on well, there would be plenty of time during the next two days to finalize discussions and come up with a decision and recommendation regarding that agenda item. He noted some good ideas of that morning, e.g., from the Delegation of India, that could be part of the eventual decision and recommendation. His suggestion therefore would be to start the informal process. He stressed that he was not calling for a separate discussion in a different room, but he would be calling on one of the Vice-Chairs to be available, in that case, the Vice-Chair from Spain, to come up with a proposed decision text which would have all of the above-mentioned elements. The idea was to have the Vice-Chair as a focal point and, in parallel to the plenary, start coming up with a decision paragraph proposals for this item. He wished to know if any of the delegations had any other ideas, and pointed out that his summary did not try to cover every single issue raised that morning. The Chair was hopeful that delegations were going to be able to come up with a decision regarding the item.

517. The Delegation of Iran (Islamic Republic of) seconded the Chair's proposal. It said that the only difficulty was the informal consultations in parallel with the plenary, because some delegations may wish to participate in both and there might be a problem to be present in both meetings.

518. In response, the Chair thanked the Delegation for its support and explained that his idea was that it was not going to be too time-consuming. Delegations had to start working from the point of informal dialogues with each other. He encouraged delegations to have short discussions, starting with something basic, as they moved forward on the agenda. The aim was to have plenty of time during the plenary discussion on the eventual decision. The Chair did not wish to stop the plenary as that would make delegations worry about the time left to tackle the remaining items on the agenda. The informal dialogue could take place in parallel to the plenary, but also after the plenary or before the plenary, it would depend on the availability of the Vice-Chair. He recalled that as the plenary would end at 6 p.m., there would be time afterwards for some exchange of views. Member States might wish to do it before the following day's morning meeting or during lunch breaks so when they come back to the subject in the plenary (having finished all the progress reports on the agenda) they could concentrate on the pending items. The Chair recalled that this was not the only pending item and stressed that there was plenty of time for discussion and, hopefully, Members would come up with a solution that was agreeable to everybody. The discussion was adjourned until the following day.

519. The Chair reopened this agenda item and recalled that an informal process with an initial discussion on the topic had started the previous day. He had encouraged the Vice-Chairs to talk to the delegations in parallel to the plenary, so as to come up with proposals on how the meeting could move the agenda item forward. He said that, from his understanding of what the Vice-Chairs had told him earlier, there was a proposed decision regarding this issue that would capture, to some degree, what had been discussed and what should be done. He requested the Vice-Chairs to report on what had been done, who they had talked to and how they had come up with a proposed decision, to give delegations a chance to read, react and consult on the matter and then come back to this item afterwards.

520. The Vice-Chair (Spain), informed the meeting that he wished to make a brief presentation. He said that, bearing in mind the discussions that they had on the agenda item and also some informal consultations with a number of delegations and regional groups, he was of the view that there was convergence on identifying certain deficiencies in the organization of meetings, or at least on the ways to improve the efficiency of regular meetings in WIPO. He stated that there was also considerable interest in seeking a solution, as a first step, on how to deal with governance on a more comprehensive basis in future meetings. He said that, therefore, the purpose of the initial proposal was to capture these two elements mentioned by the Chair, i.e., short-term measures and agreement thereon, and then a recommendation to the GA to continue discussions on a more comprehensive basis. He informed the meeting that he had also tried to include proposals and amendments adjusting some of the specific proposals, because a number of delegations he had spoken to had mentioned the need not be too categorical and to include a certain level of flexibility into the recommendations by the PBC, so that they would not lack the necessary flexibility so as not to endanger the objectives of the Organization. He drew the delegations' attention to the first point of the draft proposal. He explained that the first option in the draft proposal was a more subtle version of the Belgian, Mexican and Spanish proposal, and the second option was the one which had emerged in informal consultations, and which he was putting as an alternative to option 1, as a proposal for possible agreement. Option 1 read: *"(i) Taking as a basis the previous year, avoid for the next year exceeding the total number of official meeting days; (ii) Reduce the customary duration of WIPO Committees from 5 business days to 4 business days. This will not affect Committees whose duration is specified by the General Assembly."* Option 2 was the one which, in his opinion, gave the meeting an opportunity to see whether such proposals actually achieved the sought-after results. The next important point was to ask the GA to launch a round of informal consultations to deal with the issues of governance, and that the results of these be presented to the PBC and the GA in the coming year, or the following year. Option 2 read: *"SCT, CDIP and SCP will only meet once in 2015"*. He requested delegations and regional groups to take the necessary time to analyze the proposal and, if necessary, come back to him later or even in plenary, so that note could be taken of their comments and then, if necessary, some adjustments could be made in the later sessions. He said that, from his experience in WIPO, he

had seen the possibility that where there was agreement on the general idea of how to improve the efficiency and effectiveness of meetings. Delegations could perhaps be a bit more daring in trying to make short-term improvements so as to begin on the important matter of initiating consultations on governance.

521. Reacting to the Vice-Chair's presentation, the Chair said that it was very clear that delegations would need to undertake consultations in respect of the proposal because there were many new elements, and that it was important for the meeting to receive views on these. At this stage, he invited delegations' preliminary reactions, as there would be a need for consultations to follow. He invited delegations to discuss these amongst themselves, take them up in the groups' meetings and consider the proposal that had just been presented by the Vice-Chair. Given that it was simply an initial proposal that had come out of discussions, he said that there was time up to the end of the next session to try and resolve the issue. He recalled that any interventions, if the delegations felt comfortable, would be on the understanding that it was a very preliminary reaction to the set of proposals. The Chair then opened the floor, not only regarding the matter but also regarding how it was being handled. He was of the view that whatever work was done it would have to converge into a decision.

522. The Delegation of Kenya thanked the Vice-Chair for the presentation and for having put the proposal together. The Delegation recalled that the African Group was flexible in terms of the discussions, without shutdowns or lockdown measures, but would prefer, as a Group, to have a full picture. The Delegation foresaw challenges in terms of having a decision to have shutdown measures at the PBC session. It reiterated that it was open to discussing those elements in informal consultations. It stated that it was open to the democratic way, which was to recommend to the GA to have informal discussions. It added that it would be more comfortable with paragraph 3 as a final recommendation to the GA.

523. The Delegation of Iran (Islamic Republic of) thanked the Vice-Chair for the presentation. The Delegation believed that a hasty decision, without study and contemplation on it, should not be taken.

524. The Delegation of South Africa thanked the Vice-Chair and the Delegation of Spain who had done a good job trying to solicit opinions and converge ideas. It had no doubt that some of the ideas put forward were very useful and were good short-term measures. The Delegation agreed with the ideas but reiterated that it saw these issues as a part of a broader debate on governance. It supported the statement by the African Group whereby the Delegation was not opposed to discussing all the issues, and basically, wished to not follow a piecemeal approach but rather a more comprehensive approach. The Delegation also thanked the Delegations of Belgium, Spain and Mexico, who tabled the proposal that facilitated a very good discussion. Following the Delegation of Kenya's example, it also supported paragraph 3 and taking it further under the Chair's able guidance and leadership.

525. The Delegation of Brazil thanked the Vice-Chair and praised his efforts in trying to bridge positions and speaking with everybody. The Delegation had participated and had been engaged since the beginning of the discussions on the alternatives to improve the way things were done in the Organization. However, the Delegation pointed out that, in that sense, it respectfully disagreed with the Vice-Chair when he said that this proposal was based on small steps. The Delegation was of the view that the level of ambition got a little bit out of hand because the meeting started discussing ways to improve so as to finish by 6 p.m., and as it had mentioned in its intervention, the first two points seemed uncontroversial, which was the way to go. The Delegation said that, in this sense, it agreed with the Delegation of South Africa, i.e., that was a need for further discussions on the matter, after the GA because if delegations were willing to do something of this magnitude, they needed to discuss it further.

526. The Delegation of Mexico thanked the Vice-Chair for his efforts to achieve consensus. It said it would not be surprising to hear that the Delegation wished to reach agreement in the

current session of the PBC on some elements of the proposal, which the Delegation had co-sponsored. The Delegation noted that a decision was being sought, but given the concerns that had been raised, whatever decision might be adopted, the Delegation was at least aware of the need to have an in-depth and constructive dialogue. The Delegation said it wished to agree on certain measures that would not have an impact on the work of the Organization but would indeed benefit all delegations.

527. Speaking in its national capacity, the Delegation of the Republic of Korea thanked the Vice-Chair for the document emerging from the consultation with Member States. The Delegation recalled that the proposal made by the three Delegations was the starting point for future discussion on governance. Therefore, the Delegation fully supported the suggestion made by the Vice-Chair. Concerning options, the Delegation expressed its preference for option 1, and hoped that all delegations could reach consensus on the recommendation contained in paragraph 2.

528. The Delegation of Japan thanked the Vice-Chair for his tireless efforts. The Delegation expressed its support for the general direction consisting of two phases, short-term measures and long-term measures. It thought that it was a pragmatic and wise way to take the "low-hanging fruits" first, in order to apply good measures to improve the Organization as early as possible. It wondered if any delegations were willing to stay on after the close of business and if there were any, it wished to know who they were.

529. The Delegation of Italy expressed its support for the approval, as soon as possible, of the short-term measures, because in its opinion this was important for efficiency.

530. The Delegation of Canada wished to thank the Vice-Chair for the excellent work. It also wished to echo the comments made by the Delegation of Japan. The Delegation took note of the proposals listed in paragraph 1 of the Vice-Chair's suggestion. It wished, however, to reiterate what had been said in the plenary and raised bilaterally with the Vice-Chair, namely that it had a certain concern, given that Canada was a country that was quite far from Geneva and for which coming to Geneva was a big investment. It therefore supported the approach being taken, subject to any position the Delegation may take in the future.

531. The Delegation of Greece expressed its sincere thanks to the Vice-Chair for his efforts. The Delegation was of the opinion that the proposal could lead to an increase of the efficiency of WIPO.

532. The Delegation of Ecuador, like the other delegations, expressed its appreciation to the Vice-Chair for the work done in submitting the proposal to Member States. All delegations were aware that governance had given rise to years of discussion, and Member States of course shared the sentiment of those who felt it needed to be dealt with on a comprehensive basis. The Delegation said that the proposal contained various options and it felt that there was need to improve the governance and the conduct of meetings. Therefore, Delegation wished to see a decision taken on the Vice-Chair's proposal.

533. The Delegation of Indonesia thanked the Vice-Chair for the presentation made. It counseled that there was a need to be cautious when making a decision. The Delegation wondered if the decision had been considered in detail, and if the Legal Counsel had been consulted. The Delegation said Member States had to take into consideration the fact that whatever decision they take might affect the Rules of Procedure. If it did, then the Rules of Procedure would have to be changed. The Delegation therefore advised that Member States look at the decisions one by one.

534. The Delegation of the United States of America reiterated its very clear support with respect to option 2, i.e., reducing the number of sessions of committees in 2015, specifically the SCT, CDIP and SCP. It recalled that a number of delegations had indicated how overstretched they were. It stated that, from a governance perspective, it was very important for Member

States to take some time and really think about where they were going with the committees, and the amount of resources that were being spent compared to the results they were getting. That was why it supported option 2. The Delegation thanked the Vice-Chair for his efforts in compiling the proposal, which was extremely helpful. In its view, short-term measures as contained in the Belgian, Mexican and Spanish proposal were good proposals. In light of the ongoing discussions and debate in terms of these being earlier measures to be adopted compared to others, it noted that paragraph 3 would be very important in terms of having informal consultations. The Delegation questioned whether the time period was appropriate, considering there was an interest in addressing some of these measures sooner rather than later. Its suggestion would be to be a bit specific and, as mentioned earlier, to have formal or informal consultations. The delegation hoped that this could probably be done before the GA if the time permitted and if resources were available.

535. The Delegation of Sweden thanked the Chair for bringing the issue further. It said that it was initially positive to the proposal, but it needed to consult with its capital before it could give a definitive opinion. The Delegation wondered if it was possible to have an electronic version of the handout, so as to be able to send it to the capital.

536. The Delegation of Germany expressed its thanks to the Vice-Chair for a very constructive paper on a very difficult issue, and which it fully supported. It also expressed its preference for option 2 - limiting the SCT, CDIP and SCP to one meeting in 2015. The Delegation said that, in principle, Member States had to question whether or not all committees should only meet once a year, but this was limited to the committees that did not have to work on a potential diplomatic conference. It said that this should also cater to the concern that Member States were limiting themselves too much on procedures in the years to follow. It stated that since it was only a proposal for 2015, the paper with option 2 would be a good basis for compromise, and it supported it.

537. The Delegation of Algeria thanked the Chair and Vice-Chair for the efforts made, and also thanked the Delegations of Belgium, Spain and Mexico for the proposal on the specific issue. The Delegation had already been clear on the fact that governance was a holistic issue, including efficiency measures, and it supported the perspective of the debate. That was why the Delegation was particularly supportive of paragraph 3 of the proposal, without rejecting the other elements of the proposal. But in its view, what Member States first needed to do was to start reflecting on proposals, including the one made by Mexico, Belgium and Spain, so that all were treated in an equal manner. The Delegation advised the Committee to be reasonable and decide, at this point in time, to launch informal consultation. The Delegation recognized the fact that efficiency measures were important in terms of governance, and that Member States would come back the following year with more ambitious work planned.

538. The Delegation of India thanked the Vice-Chair for his hard work and reiterated what it had suggested the day before, i.e., that even the short-term measures should not be taken from only one proposal (the latest proposal coming from the three delegations). There were other proposals on the table, put forward in the past years, and Members should have given more equal treatment to all of them. The Delegation noted that having a limitation or a fixed time-frame for the duration of meetings, whether four days or five days, did not matter. What mattered was that Member States had judicious time for each agenda item, the time for deliberations and taking a decision. It stated that it did not see any need to have a decision for the sake of having a decision, "there and then", although it appeared, in the beginning, that it had merit and that it should be something that could be deliberated on. However, in the end, it did not seem that Member States were obliged to take a decision right then.

539. In response, the Chair stated that there was no intention of forcing any delegation to take a decision, but what the membership was engaging in was an initial reaction regarding the proposal. The Chair thanked the Vice-Chair for coming up with the proposal. He said that his idea was to have delegations' initial reaction, understanding that any delegation would have to

go back to their respective group to consult on the matter. The discussion would continue in the morning of the following day. The Chair stated that before closing the session, he intended to invite a standard discussion on other agenda items.

540. The Delegation of Chile thanked the Vice-Chair for the alternative proposal, which sought to incorporate the elements of other proposals, with some additions. As Member States had heard, the proposal was part of a more general governance debate, but did seek to help Member States in moving forward in a specific area of trying to enhance the efficiency of meetings in 2015, subject to reassessment. It did demonstrate willingness to better organize Member States' work, so it would be more relevant, based on the experience of this year's meetings. The Delegation said that there were new elements in the proposal, as mentioned by the Chair, and it was looking at these together with its authorities in the capital. The Delegation reiterated its appreciation for the proposal and was happy to hear the views of other delegations.

541. The Delegation of China thanked the Vice-Chair for the proposal. It said that, as stated the day before, China wished to see WIPO take further measures to improve the efficiency of its meetings. As for the short-term measures in the proposal, the Delegation said that it was flexible and open and would actively participate in relevant discussions. It recalled that governance was a very complex and long-term issue, involving many elements. It therefore cautioned Member States to be pragmatic and prudent.

542. The Delegation of Switzerland wished to echo the comments made by other delegations in thanking the Vice-Chair for all the work that he had done. The Vice-Chair had worked very hard in trying to see the way forward on this extremely important issue. The Delegation wished to associate itself with those who believed that it would be valuable for Member States to take at least a number of provisional measures, once there was consensus on that. It believed that Members should start working on reaching agreement on some items (in the first two points of the proposal) to take a few steps forward. The Delegation was aware that Member States had their own responsibility to bear and knew what the rules were. It acknowledged that if everyone agreed that meetings would end at 6p.m., that would be a good signal and a step in the right direction. The Delegation supported the approach put forward in the proposal.

543. The Delegation of Poland thanked the Vice-Chair for the proposal presented. It wished to thank the Delegations of Belgium, Mexico and Spain for the work done and the proposals presented at the beginning of the session. It expressed its support for a two-track approach, and was therefore in favor of the proposal presented in option 1. It was well aware that discussions on governance had been ongoing for many years without any results. The Delegation advised that Member States take, at least, a small step forward which would be quite important for them, and then of course, indulge in the larger debate.

544. The Delegation of Guatemala thanked the Vice-Chair for the document that he had circulated. It felt that the document contained some specific measures that could help Member States have more efficient meetings. The Delegation said that it would continue to analyze the proposal and would make further comments at a later time.

545. The Delegation of the Czech Republic thanked the Vice-Chair for his proposal, which assembled several viewpoints and different aspects presented during the previous and the present PBC session. While the Delegation had not consulted on this particular issue with the Delegation of Poland, it seemed that the Polish delegate had read from the paper just in front of the speaker. The Delegation said that when trying to reach big results, sometimes it was important to take small steps rather than big leaps that would take a long time. The Delegation was of the view that the Vice-Chair's proposal contained some small steps that were very wise and that had been called for by many delegations, maybe all the delegations. Therefore it would be wise for Member States to start with that and try to have further consultations on some bigger steps.

546. The Delegation of Singapore said that it was known for exercising extreme amount of caution before taking the floor, so in a small way its country demonstrated efficiency. It had taken the floor because it thought that it would be a little remiss if it did not take the floor to thank the Delegations of Belgium, Mexico and Spain for the proposal, and the Vice-Chair for his hard work. Having listened to the ongoing discussion, the Delegation felt that it would be a pity if Member States did not manage to make some progress on the issue, especially having listened to everybody dissect the bullet points in the draft paper, most of which were pretty basic and logical, like that meetings could end by 6 pm. The Delegation wished to see if, perhaps, the PBC could adopt the short-term measures first, because there was need for one to learn to walk before one could learn to fly. The Delegation felt that if Member States could make some progress and seize the opportunity to take a small step, it would feel that everybody had done themselves a favor.

547. The Chair reiterated the understanding that the discussions were only preliminary. He emphasized that Member States should thank the Vice-Chair for his amazing work on the proposal. He was of the view that delegations had some constructive engagement that would lead them, hopefully, somewhere concrete. The Chair added that Member States would have the time to reflect outside of the meeting and consult with their regional groups. He invited the Vice-Chair to comment on the delegations' remarks.

548. The Vice-Chair (Spain) thanked delegations for the support for his work, but above all for the fact that the comments they made, of which he had taken careful note, showed great interest in the proposal. It was true that it was difficult to take decisions when there were novel proposals and not everyone was certain what the implications of such a decision would be. But, in his view, Member States could work together to see whether they were capable of agreeing on some of the proposals. He stated that he was not trying to pressure any delegations to agree to something they did not like, but the general understanding was that there was some interest in perhaps seeking agreement on some short-term measures. He would appreciate it if delegations could point to some specific measures with which they could agree or if they could propose others. He admitted that the text was based on the original proposal that a number of delegations, his own included, were involved in, but the paper was drawn up as a result of discussions with other delegations. He stated that on the basis of dialogues with regional groups and other delegations, they would appreciate actual suggestions for wording. If this could be done by the following day, Member States might be able to come up with measures that would benefit everyone, and they might be able to agree to a framework for continuing broader discussions on governance. The Vice-Chair said that he would welcome further comments to see whether delegations might be able to reach an agreement the following day.

549. The Chair thanked the Vice-Chair and said that the discussion would be taken up again the following day.

550. Reopening agenda item 20, the Chair called on the Vice-Chair to remind the meeting where it stood in respect of governance issues, and to report whether he had had any further consultations or thoughts regarding this agenda item. The Chair also informed the meeting that the Legal Counsel was present, pursuant to the request by the Delegation of Indonesia, to provide legal opinion on the matter.

551. The Vice-Chair (Spain) thanked delegations for their general comments of the previous day, and, in particular, the delegation which had provided him with concrete comments. He admitted that some of the short-term measures were ambitious, although they needed to be ambitious in order for Member States to come to an agreement. However, he cautioned that if Member States were not aiming high to begin with, then he did not know when they would be able to be ambitious. He said that Member States wanted to include the elements that would gather consensus, and that he would explain the modifications that had been made to the text. Under number 1 of the short-term measures, a number of delegations thought that the Chair should have some room for maneuver, if he thought that he should let the meeting run longer in



order to come to an agreement. Therefore, the reference to 7 p.m. would be eliminated because if the Chair wanted to use his time efficiently, then he would be able to. Then there were three new measures, which were not revolutionary in any way. They could assist Member States in their decision-making process, showing that they were capable of coming to agreement on small things. First of all, there was a request to the Secretariat to continue their efforts to make documents available, in all official languages, two months prior to the meetings. This point was not only important but also beneficial to all delegations enabling them to participate in meetings more effectively. The second point was the request that nominations of Chairs and Vice-Chairs take place as early as possible so that, if possible, the officers could have the time to prepare for the meeting, before they were formally elected. That was one idea that, again, would assist Member States in their work. Third, a question pulled out from other proposals, and which the Legal Counsel would be able to clarify - the differences in functions between the PBC and the CoCo. The Vice-Chair thought that this, again, would be important for future discussions. He said that he had also introduced a nuance with regard to reducing meeting duration from five to four days on average. This proposal had caused some concern for some delegations and so, if possible, some wiggle room could be left so as not be too strict in saying how Member States should work. Finally, the Vice-Chair proposed a decision based on two aspects. One was a possible decision, short-term measures, but also a timeline on how Member States would be able to structure negotiations in the future. It was important to include this point because it was essential for many delegations to be able to prepare the debate in the GA – have the possibility of carrying out consultations from now until the beginning of the GA. That was the summary of the changes introduced. He added that, in his view, it would be useful to have the legal opinion on what had been changed, and see whether or not the proposal had gone against any of the Rules of Procedure.

552. The Chair noted the new elements and, as he understood, any reactions to them would be preliminary. He noted that several new changes emerged up from specific proposals that had already been part of the overall discussions on the reforms of governance.

553. In response to the clarification sought, the Legal Counsel said he did not see that there was anything in the current proposals on governance, which contradicted any of the WIPO's applicable procedures. In other words, he did not see that there was any legal issue with any of the proposals. He pointed out that, in some of them, for example, delegations were requesting the Secretariat to report to Member States on the division of responsibilities between the PBC and the CoCo. That could be done, but, as Member States were aware, the CoCo's responsibilities were spelled out in the WIPO Convention, whereas the PBC was a subsidiary body of the GA. He concluded by saying that, in terms of legality, there was no issue with any of the current proposals.

554. The Delegation of India pointed out that although it was not a legal expert it had a question for the Legal Counsel. In other international organizations, a meeting was scheduled from 10 a.m. to 6 p.m., and the Delegation wanted to know if it was the same practice in WIPO.

555. In response, the Legal Counsel said that, in WIPO, meeting times were normally scheduled from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. But, in his view, the governance proposal was a response to the practice and the fact that, several times, meetings went beyond 6 p.m. Although the officially scheduled times were "until 6 p.m.", they had, in fact, gone way beyond 6 p.m., even where that had not been the expectation.

556. The Chair noted that this was one of the issues on which some preliminary reactions had been received in the previous version of the Vice-Chair's proposal, and wondered if Member States were ready to react, at least to the elements of the proposal, given that consultations had been held the previous evening and that day. He asked if there were any views regarding the viability of agreeing to something regarding this agenda item.



557. The Delegation of India requested further clarification on the schedule of meetings because it was still confused whether WIPO provided the schedule of meetings or not. It was of the view that WIPO might do the scheduling for the GA, but wondered if it was also the case for other meetings. It wondered if the Rules of Procedure specified that the schedule was from 10 a.m. to 6 p.m. total, with a lunch break. The Delegation also wondered if that meant that, in practice, Member States violated that schedule.

558. The Legal Counsel clarified that he was not saying there was a specific rule stating that meetings should run from 10 a.m. to 1 p.m. and 3 p.m. to 6 p.m. What he was referring to was the fact that the Secretariat always scheduled meetings exactly as the Delegate had mentioned, as the United Nations did, 10 a.m. to 1 p.m., 3 p.m. to 6 p.m., and that was the expected meeting time range. He pointed out that it was up to Member States to say how much longer they wanted the meeting to go, and hastened to add that in the past, meetings had sometimes gone beyond 6 p.m.

559. The Delegation of Algeria recalled the general powers of the Chair, going back to Rule 13 (1) of the WIPO Rules of Procedure. In the Delegation's view, the said provision provided full latitude to the Chair, or Chairs, to open and close their sessions as per their discretionary powers. It therefore wondered if limiting those powers in some way and obliging them to end the day at 6 p.m. - and saying that they could only extend the debate in exceptional cases - if that in itself, did not restrict the powers of the Chairs to open and close their meetings as they saw fit. It therefore wished to have a more detailed legal view on that matter.

560. In response, the Legal Counsel noted that the Delegation made reference to Rule 13 of the Rules of Procedure, which said that "the Chair shall declare the meeting open and closed". He gave an example of the Secretariat proposing that a meeting run from 10 a.m. to 1 p.m. and 3 p.m. to 6 p.m. At 10 a.m. the Chair would declare the meeting opened. At 6 p.m., assuming the meeting ended at 6 p.m., the Chair would declare it closed. If the meeting went on until midnight, then the Chair would declare the meeting closed at midnight. In other words, proposing that meetings, in general, should run from 10 a.m. to 1 p.m. and 3 p.m. to 6 p.m. did not mean that a Chair could not decide that meeting would go beyond 6 p.m., or that Member States could not decide that meeting would go beyond 6 p.m.

561. The Chair summarized the discussion and recalled that delegations had before them a proposal on short-term measures, which most delegations had advocated for. Some delegations had reservations on the relevance and the importance of taking such decisions at this stage, with the view that the proposals should be part of the general process; some other delegations were urging adoption and saying that those measures were the "low-hanging fruit" waiting to be picked. He recalled that the first two paragraphs talked about the short-term measures, with some elements coming from other specific proposals (e.g., the African Group's). Those short-term measures would improve efficiency and have an economic effect on the working of the Organization. The second paragraph was a review of a commitment regarding the effect of those measures. The Chair noted that paragraphs 1 and 2 were part of this short-term decision, while paragraph 3 indicated certain commitment and gave signal for the GA to launch a structured process, as had been requested by delegations. The Chair inquired whether any delegation had specific questions and reflections on his summary of a possible compromise. He was of the view that delegations would probably have to consult and rethink the issue to see if the meeting could move it towards a decision.

562. The Delegation of India thought that some delegations could be interested in giving some new and constructive ideas. It noted that there were several decision paragraphs where the meeting did not need to adopt the measures but rather try to give encouragement to do something. It understood that there were some elements which were not directed to Member States or the Secretariat. The Delegation said that it would leave this decision in the hands of the Chair and wondered if it was possible to do something to enhance efficiency without adopting any measures.

563. The Chair wondered if adjusting the wording to make it more of a general recommendation rather than an instruction would be helpful to reaching an agreement. If so, he encouraged delegations to hold consultations with the Vice-Chair on that.

564. The Delegation of Iran (Islamic Republic of) thanked the Vice-Chair for the proposal. The Delegation recalled that it had proposed new language on paragraph 3 and requested that the proposal be circulated as part of item 20. It read as follows: *“PBC recommends the General Assembly to establish open-ended informal consultations guided by the Chair of the PBC, to review and make necessary recommendations on WIPO governance, structure, existing practices, with a view to strengthening the capacity of the governing bodies to guide and monitor the work of the Organization and increase its efficiency, taking into account all related proposals. The Chair shall report the outcome of the deliberations to the next PBC session and 2015 General Assembly for its consideration and decision.”*

565. The Chair thanked the Delegation for its proposal and said it had been incorporated in the main proposal, which was the basis for discussions. He asked if other delegations had any proposals, since some delegations had preliminarily expressed their reservations on the different elements of the proposal. He encouraged these delegations to share their views.

566. The Delegation of Indonesia expressed its support for the proposal made by the Delegation of Iran (Islamic Republic of), and wished to add several phrases, which it had already given to the Vice-Chair that morning.

567. At the Chair's request, the Delegation of Indonesia read out its proposal as follows: *“PBC recommends the General Assembly to establish open-ended informal consultations, guided by the Chair of the PBC, to review and make necessary recommendations on WIPO governance, structure, existing practices”* and added a new element – *“and task the WIPO Secretariat to conduct and report on comparative studies of UN specialized agencies' reform”* - and the following sentence remained the same *“with a view to strengthening the capacity of the governing bodies to guide and monitor the work of the Organization and increase its efficiency, taking into account all relative proposals”*.

568. The Chair welcomed all of the adjustments to paragraph 3, but noted that the viability of Member States having paragraph 3 would probably also depend on having a decision on the rest of the document. He encouraged delegations to consult on it so as to see if they were going to agree on a package. He noted that some delegations were not of the view that there was any need for any structured process. He stated that the PBC did not need to send any detailed request for any specific process or suggestion to the GA. He noted that, on the other hand, some delegations did not think that short-term measures should be taken. In his opinion, the viability of any eventual decision would have the two elements. He stated that he was not saying that the way the adjustments were made would be viable. He clarified that he had no idea what the reactions of some delegations would be to that proposed language, but added that, before the meeting broke off for consultations, all delegations should be very aware of where they stood. He advised the membership to bear in mind what sort of decision they would take if there was no agreement regarding the issue. Member States had to be very responsible, had to always think about a plan B and have it ready in case the present discussions did not converge to any viable agreement. He recalled that he had raised the same question with regard to development expenditure definition.

569. The Delegation of South Africa thanked the Vice-Chair for the constructive proposal. The Delegation said that, as it had mentioned earlier, the proposal made by the Delegations of Belgium, Mexico and Spain provided Member States with an opportunity to discuss the matter, of which the Delegation was deeply appreciative. The Delegation did not see any problems with the top half of the proposal. It wondered if the concern raised by the Delegation of Algeria could be reflected in the second point, in the bullet point after number 1. As it had also mentioned the previous day, it did not have an opinion on option 1 and option 2 for the time being, because it

was definitely not in favor of option 2. The rest of the text at the bottom of the page was fine. It pointed out that it did listen with interest to the proposal by the Delegation of Iran (Islamic Republic of) and believed that there was a need to start somewhere and urged delegations to give the proposal serious consideration.

570. The Delegation of Poland supported the proposal as it stood. The Delegation was of the view that it was of importance that Member States clearly state where they stood, stating directly what they wanted “at present” and not “eventually”. The Delegation said that, as Member States were aware, it was up to them, in the PBC and in WIPO, to agree on issues and noted that so far they could not agree. It noted that all delegations were of the view that changes had to be made, but none wanted to accept that. In the Delegation’s opinion, it was time to make a clear statement on what should be done. On paragraph 3, its opinion was that they should go along with paragraph 3 as it was. The Delegation stated that including the newly proposed changes would make the proposal unacceptable to it.

571. The Chair observed that the meeting had developed to the point where, as he had said, the agenda item was going to be suspended. He added that the Committee would come back to it at a later stage. He thanked the Vice-Chair for his work and a very clear contribution. He recalled that the meeting would be coming back to this item and added that it was better to jointly decide on “how”. Delegations could have consultations during the break. Afterwards, the Secretariat would provide explanations requested by the Delegation of Algeria, and Members would need to discuss the next steps regarding that agenda item.

572. The Delegation of Algeria, wishing to contribute constructively to the proposal, asked whether it would be possible to add the wording “*meetings should end no later than 6 p.m., without prejudice to Rule 13.1*” to the paragraph. In its view, it would not be problematic to add the reference to Rule 13.1.

573. The Chair thanked the Delegation for the proposal and observed that it sounded very constructive.

574. Reopening discussions on governance, the Chair announced that there was a working document facilitated by the Vice-Chair.

575. The Delegation of Paraguay thanked the Vice-Chair for the draft decision which had been circulated the previous day, and on which Member States had continued to work. The Delegation shared the ambitious view of the Vice-Chair, who had continually called on Member States to be slightly more daring and try to examine some specific short-term proposals. From that point of view, the Delegation wished to express its thanks for the document, and wished to make two comments, and perhaps a proposal on paragraph 3. The Delegation also wished to know from the Chair, since this had come up again, what his view was since the consultations started, and also whether he had any thoughts about Plan B, C or even D. It also wished to know in what order the Vice-Chair planned to put those proposed paragraphs in. The Delegation said it was trying to think of it in a constructive way, and suggested taking paragraph 3 as a draft decision, taking on board the comments that had been made in the morning session, and perhaps at the end there would be an agreement, at least provisional, on the study and the implementation of a number of measures mentioned in paragraph 1 so as to make the decision rather short and cover the idea of having informal consultations as well, while, at the same time, trying to include the points made in the joint proposal by three delegations. The Delegation noted that the proposals in paragraph 1 were very interesting, but putting it down in black and white would make them stronger and would lead to improved efficiency of meetings. It said that it would confine its preliminary comments to what it had just said, and called for the opinion of the Vice-Chair.

576. The Delegation of the Czech Republic thanked the Vice-Chair for the revised proposal. The Delegation said it would be supportive of it when it came up for discussion. It also thanked the Delegation of Algeria for its proposal. It certainly added clarity to the first bullet point in

paragraph 1, and the Delegation would be able to agree to that. However, the Delegation would not be able to add its voice to the suggestions made by the Delegations of Iran (Islamic Republic of) and Indonesia. It recalled that those were the two delegations proposing additions to paragraph 3. Concerning the proposal just made by the Delegation of Paraguay, the Delegation felt that, in their decision or the recommendation from the PBC to the GA, Member States should show results first (included in paragraph 1); paragraph 2 was a review of these results in the future; and then suggest continuation of informal consultations or the launching of informal consultations. In its view, there was logic to the order of the three paragraphs, and the Delegation would not be in favor of shifting them around or having one as a decision and the other as sub-paragraphs. The Delegation hoped the text was concrete enough for Members to move forward.

577. The Delegation of Brazil informed the meeting that it had tried to consult with its capital that morning because the developments went beyond what had been planned. As it had mentioned in its earlier intervention, it supported the proposal and was engaged in the discussions since the beginning because the draft contained some non-controversial proposals to start with. However, things were getting out of hand, as there were too many items that deserved further discussion. The Delegation observed that the document for the present session was even bigger, so it would try to see what could be done constructively to narrow it to what was acceptable. It reiterated that it agreed with all the items and requested the Secretariat to report to Member States on the division of responsibilities between the PBC and the CoCo. The Delegation said that option 1 and option 2 were not acceptable as they stood at present and believed they had to be discussed further. Concerning paragraph 3, as mentioned by the Delegation of Paraguay, it believed that it might be a good to have consultations, once Member States had the terms of reference for them. The Delegation noted that this was the key issue, because if Member States launched them on the basis of the text as presently phrased, the Delegation would have no idea what exactly was going to be the basis for those consultations. The Delegation was of this view because certain ideas raised during the PBC were already considered not acceptable by some delegations.

578. The Delegation of Japan thanked the Vice-Chair for his effort and hard work in order to bring together some elements which would enable the meeting to approach a “landing zone”. As Group B, the Delegation supported the line of the proposal on the table and noted that Member States might have to make an effort together on the hardest issues in paragraph 1, including option 1 and 2. Commenting on paragraph 3, the Delegation thanked the Delegations of Indonesia and Iran (Islamic Republic of) for their proposals but noted that they included some wider scope, which went beyond what Member States foresaw, and that such language would give some prejudice to the direction of the discussion. Group B was not in a position to accept the changes proposed by the two delegations.

579. The Delegation of Poland expressed its support for the statement made by its Group Coordinator, the Czech Republic, and in those terms wished to say that it supported point 1 with the addition made by the Delegation of Algeria. In terms of option 1 or option 2, the Delegation recalled what it had said the previous day, i.e., that it would be in favor of option 1, but in the spirit of compromise it would be ready to drop option 1 and option 2 out of the text. It also thanked the Delegations of Indonesia and Iran (Islamic Republic of) for their suggestions, but added that it could not accept them. In terms of what the Delegation of Brazil had said concerning the terms of reference, the Delegation was of the view that informal consultations could start with a discussion on the terms of reference.

580. The Delegation of Kenya, speaking on behalf of the African Group, stated that, as far as its Group was concerned, it could deal with option 1 up to the bullet which ended with “request” and move on with the merits in terms of members being able to know what it was they were agreeing to and the implications that would arise, so that everybody was on board. The Delegation expressed its support for paragraph 2, and said that Member States could work on the changes proposed by the Delegations of Indonesia and Iran (Islamic Republic of). It was of

the view that Member States could find a compromise on all proposals put on the table and make them better, including the issue mentioned by the Delegation of Brazil.

581. The Delegation of Mexico wished to say that, for obvious reasons, it supported paragraph 1, including option 1. With respect to paragraphs 2 and 3, the Delegation expressed its preference to have the original wording as submitted by the Vice-Chair. The Delegation said that it had listened carefully to the comments made by the Delegation of Brazil on the terms of reference, but the understanding that it had on the basis of the debate was that many Member States viewed governance as a very comprehensive issue, and therefore the discussion should not be limited by the terms of reference. However, as the Delegation of Poland had said, in informal consultations one could define the terms of reference, and so Member States could see at that time what those should be. The Delegation reiterated its preference for paragraphs 2 and 3 to remain as originally worded by the Vice-Chair.

582. The Delegation of the United Kingdom expressed positive view on the proposal and the work of the Vice-Chair on the issue. Therefore, it definitely supported the elements put forward in the paper. Nevertheless, having listened carefully to the concerns of other delegations, it understood that some of them might have problems with option 1 and option 2. It noted that those were the crucial elements of the proposal but it understood that it was more difficult to accept them. The Delegation was definitely looking forward to accepting, at least, those parts on which there was agreement, and from what it had been hearing, under point 1 there were elements to option 1 and option 2. The Delegation stated it would support even the smaller steps that could be taken at the present session for the benefit of Member States and for improving meetings. It therefore stated that, if Member States could have enough convergence on these first points, the Delegation would definitely support it and, hopefully, at the next session the Committee could tackle issues under option 1 and 2. On paragraph 3, the last sentence, the Delegation proposed a change, and instead of “*consultations*”, it would rather say “*a consultation meeting could be pursued*”, as there was not much time left for consultations before the GA. It noted that there would be plenty of other important issues to discuss, and suggested that it should rather be seen in a singular form.

583. The Delegation of Iran (Islamic Republic of) apologized for its late arrival and informed the meeting that, unfortunately, it had not heard the proposal by the Delegation of Brazil, but wished to raise a point about its proposal. It stated that its proposal was based on the related documents and the proposals tabled so far. It said that it had tried to make it more precise and streamlined. It pointed out that it preferred to move up paragraph 3 as paragraph 1. On options 1 and 2, the Delegation said that it could not go along with option 1.

584. The Chair proposed that, as there were no requests for the floor, the Vice-Chair take the floor to present how he saw these elements, and how to combine them with the information he had from the consultations he had undertaken.

585. The Vice-Chair (Spain) thanked the delegations because the Chair’s statements had shown him that there was willingness to be a bit more audacious than in the past. All delegations agreed (in terms of the decision on paragraphs 1, 2 and 3) that there was a need to reach an agreement. His recommendation was that Member States have a discussion on all of the different paragraphs and then take an overall decision, because if they were to limit their discussion to any particular points, it would be unclear what would happen with the subsequent points. He said that, having listened to the discussion, he wished to point to the areas where some minor changes had been made (regarding meetings closing no later than 6 p.m.) and, as the Delegation of Algeria had said, they could perhaps say “*without prejudice to the Rules of Procedure*”, or at least, cite the Rules of Procedure. In his opinion, it would be possible to include this phrase and still keep the spirit of the recommendation, although it would not be categorical (that meetings should end by 6 p.m.) He said that options 1 and 2 did move Member States ahead in terms of the level of ambition. It was not exaggerated, but it did exceed what Member States had said in the past. He noted that it would be difficult to select

option 2 in the present session and suggested that, perhaps, delegations could work on the first paragraph of option 1 to come up with a gentler, non-restrictive language, without a strict limitation on the number of meeting days. He advised Member States to focus on paragraph 1 of option 1, and the possibility of introducing minor changes in paragraph 3, if there was agreement. He informed the meeting that he had some wording to propose to see whether there would be agreement on it. He noted that delegations could start with the proposal by the Delegation of Iran (Islamic Republic of), as supported by a number of delegations, i.e., the idea of open-ended, informal consultations, or the idea that all proposals made to date also be part of the informal consultations.

586. The Chair cautioned Member States to be careful with what they approved and suggested that the Vice-Chair work on a new draft document. He suspended the agenda item until such new document was ready.

587. The Delegation of Poland referred to what the Vice-Chair had just mentioned, i.e., request to the Secretariat to report on other organizations' practices, and wondered what impact this would have for the Secretariat, whether it would mean additional staff, additional costs, and how the Secretariat would wish to proceed with that matter.

588. Reverting to the agenda item, the Chair called on the Vice-Chair to present the new text.

589. The Vice-Chair (Spain) thanked delegations for their cooperation, especially since it was not easy to find a solution reasonably satisfactory to all. He added that, quite clearly and despite his best efforts, he would not manage to satisfy all delegations with his proposal. He had now reached the limit of his abilities as a facilitator and he hoped that Member States would be indulgent with him if he had not reflected all of their interests in the new proposal. He said that he would point to the changes and where he saw the most important elements that they had to agree upon. He added that he could see that there were few elements needing further refinement and, therefore, urged delegations to make the last-ditch effort to see if they could agree on those points, as they had spent many years negotiating them. He said that, first of all, in paragraph 1, he had introduced the idea that the measures should not be inconsistent with the WIPO Rules of Procedure. Furthermore, the shortened wording said that meetings "*should strive to end by 6 p.m.*" The text further said "*Only in exceptional cases, provided that the Chair of the meeting considers that an extension is necessary to obtain a satisfactory result, should they be extended, preferably until 7 p.m.*", using the word "preferably," as delegations were talking about a preference, and were therefore not being too demanding. On the last point under the first section, his opinion was that Members had listened to each other views to see what the level of ambitions was. He said that he had taken out the two options that were not something they could agree upon. He had also excluded paragraph (b), because he did not believe they could reach agreement at present and had reworded it to be as flexible as possible. He urged Member States to look at the wording because he had used expressions such as "*taking as a basis*" when possible, "*without affecting WIPO normative priorities*", and "*strive to avoid*." He believed that the language did give the necessary flexibility so that the interests and normative priorities, matters of concern to delegations, could be more or less covered. The bullet point in question read: "*Taking as a basis the previous year, when possible and without affecting WIPO normative priorities, strive to avoid exceeding the total number of official meeting days during the year.*" The new text also talked about consultations with open and closed participation. In his view, the most noteworthy paragraph contained the issues that they agreed on. He said that, first of all, if the Chair of the PBC found it appropriate, informal consultations would begin on governance issues and that these consultations would submit their results to the PBC and the GA the following year. The Vice-Chair believed that there was consensus on the matter.

590. In reaction to the statement by the Vice-Chair, the Delegation of Poland referred to its earlier question, which concerned the report on comparative studies of other UN agencies'

governance structure. He recalled that he had asked whether such report would imply new costs, new staff or anything of the sort.

591. In response, the Legal Counsel said that the Secretariat would not need additional resources to prepare a report as requested, but doing it would take time, because it would involve sending a questionnaire to the other UN agencies, getting responses back and compiling them into a report for submission to the PBC.

592. The Delegation of Mexico expressed its support for the proposed text. It noted that while it was not what it might have wanted, it was, nevertheless, a balanced text, which took up, in one way or another, all of the concerns mentioned by Member States. In order to make progress and given that time was running out, the Delegation supported the proposal, and hoped that all other delegations could go along with it as well.

593. The Delegation of Iran (Islamic Republic of) thanked the Vice-Chair and appreciated his facilitation of the process. The Delegation was not confident with bullet 1 "*until 7 p.m.*" and bullet 6 in paragraph 1, but, it could be acceptable provided that in paragraph 3, the phrase: "*to review and make necessary accommodations*", be replaced with "*to address*".

594. The Delegation of Indonesia thanked the Vice-Chair for the revised draft. It appreciated the Vice-Chair's effort to accommodate Members' interest and noted that its interest was placed in paragraph 1. The Delegation wished to suggest an amendment to bullet point 5, last sentence, the line with "*the UN agencies' governance structure.*" It requested to replace "*structure*" with "*issues*", which was in line with paragraph 3, which talked about addressing "*WIPO governance issues*".

595. The Delegation of the Czech Republic thanked the Vice-Chair for his never-ending efforts and hoped that Member States would allow him to end his efforts soon, given that it was already 6 p.m. The Delegation said that it would go along with the proposal as it was. It suggested a slight change to correct a typo in paragraph 3, saying "*to address WIPO governance issues*" and which should read "*inter alia, those mentioned in the JIU report*" not "*i.e.*". The typo was due to the quick drafting, to address some of the proposals made just a couple of minutes ago. In the Delegation's opinion, the text was bordering on a "take it or leave it" proposal. If delegations started to change a word here and there, it did not think they would ever end the session.

596. The Delegation of Switzerland thanked the Vice-Chair for the efforts to come up with a compromise proposal. It wished to comment along the same lines as the Delegation of the Czech Republic: if Member States had something to say about everything, they would never finish. The Delegation also wished to respond to the Delegation of Indonesia. It was not quite sure what Member States would be asking by way of a report, if they were going to change bullet point 5 and speak of UN agencies' governance issues they would lose the focus of the discussion. It suggested that Members give a very clear mandate so that something feasible could be prepared for them within a time span which would enable them to study the report so that they could come up with something useful following that study. It understood what the Vice-Chair had put in his proposal, which was to have a picture of the structure of the different UN agencies and how the different committees were organized. The Delegation considered such a study feasible. Otherwise, the Delegation did not know exactly where they were headed, and expressed its preference for keeping the original text.

597. The Delegation of China also thanked the Vice-Chair for his latest proposal and the hard work he had put into the process. The Delegation suggested modifying bullet point 5 under paragraph 1, the part in the second sentence talking about the PBC and the CoCo: the word "*its*" should be change to "*their*", reading "*their efficiency*". Regarding the governance structure in the same bullet point, the Delegation supported Indonesia's opinion on the matter, because at this stage Member States did not want to prejudge the outcome of informal consultations or comparative studies. The Delegation said that Member States were not sure what the specific

issues were and therefore needed a study, with the comparison covering all issues related to governance. Regarding paragraph 3, the Delegation suggested that it be modified as well. It observed that governance was a long-term and complex issue and in order to reach consensus as soon as possible, the Delegation suggested simplifying the paragraph. To this end, it wished to propose the following: the text following “i.e.,” until the end of the sentence needed to be deleted so that the sentence stopped at “*governance issues*”.

598. The Delegation of Chile wished to associate itself with the words of thanks to the Vice-Chair. The Delegation felt that the points that it had raised in its statements had been reflected. It agreed with the appeal made by the Delegations of Mexico, Switzerland and the Czech Republic to try and adopt the document. If Member States began to analyze the various proposals, it would seem that they become incompatible. For example in bullet point 3, and in paragraph 3, one noted words such as “*governance issues*” but nothing specific followed. Some words appeared to be incompatible with others. The Delegation believed that sticking to the original text, with a few editorial changes, could be an alternative and thus would avoid wasting the good work done during the week, which had helped Member States move forward on these issues.

599. The Delegation of Mexico agreed that the discussions had gone beyond the set time and delegations were rather tired. It said that Member States were playing with words, which sometimes was not very meaningful. It referred, particularly, to the specific proposal made by the Delegation of China. It noted that the Vice-Chair had included the proposal bearing in mind the proposals made by several delegations that wanted to include a reference to the report. It was very important, as in the last few days delegates had been taking account of all the proposals made. So, if that sentence was eliminated, Members would be back to square one in their discussion. The Delegation therefore called upon all delegations to consider the proposal, as some of these questions were not of fundamental importance.

600. The Delegation of Monaco joined other speakers in thanking the Vice-Chair for his work and trying to reflect the concerns of most delegations in a single document. This was a difficult task, and Member States could only be grateful to him for that. Speaking on the proposal by the Delegation of Indonesia, (bullet point 5 of paragraph 1), the Delegation agreed with the comment by the Delegation of Switzerland that it referred to other governance issues. In this case delegates did not know what issues they were talking about as the reference made there was to other UN organizations, each of which had its own problems and issues. Bullet point 5 talked about the various responsibilities of the PBC and the CoCo, which was definitely a matter of governance structure. The Delegation warned against opening to other issues and thus losing the focus of paragraph 5, which talked about the division of responsibilities between two important bodies in WIPO. The wording of the paragraph should be kept as suggested. Generally speaking, the Delegation was of the opinion that the Vice-Chair’s suggestion in the text should be kept because it was the outcome of a compromise.

601. The Vice-Chair (Spain) responded that since he had heard delegations’ comments, he believed that Members could find a solution. He had also heard their misgivings, and if there were no further misgivings, he wished to work with the delegations that had expressed their views to see if they could come up with an agreement.

602. The Chair summarized that, as far as he could see, there were two proposals that did not really involve a challenge as such. There was one for an editorial change in subparagraph (e), or the bullet point 5. The other one was changing, “i.e.,” to “*inter alia*”. There was also the question of the deletion, mentioned by the Delegation of China. The Delegation of Mexico had also mentioned that the Vice-Chair had attempted to reflect the concerns of all, in the previous work, not just by JIU but by all delegations that had been working on the proposals. Therefore the Chair appealed to the Delegation of China to reconsider its request. The request from the Delegation of Iran (Islamic Republic of) was to consider the direction of informal consultations



and to see in what direction Member States should head. That might seem somewhat more complicated.

603. The Delegation of Brazil apologized that it had not been able to follow the discussion because it was on the other side of the room exploring alternatives for the other point, but wished to say that its views were already conveyed to the Vice-Chair.

604. The Chair observed that great progress had been made and if delegations came up with a decision, it would be a milestone. Then they would certainly be headed in the direction of governance. He requested the Vice-Chair to work with delegations to see if they would have another proposal that could be tabled for a decision. He then suspended discussion on this item to allow time for further consultations.

605. Reverting to agenda item 20, the Chair invited the Vice-Chair to report on the outcome of consultations.

606. The Vice-Chair (Spain) commented that this was a rather complicated effort: given the number of requests and trying to work out how to fit them together to come up with a meaningful decision was becoming confusing. The easiest way was, of course, to leave the matter for the next PBC. He observed that any decision which would help delegations move forward would leave them more or less contented, and, in his view, delegations would have to accept that fact. He said that he was going to make the last pitch and ask delegations whether or not they accepted the text. Member States had to decide whether they wanted an agreement or not, but they had to keep trying as they were close to reaching an agreement. He apologized to those delegations who might feel that their desires were not entirely reflected. He then read out the proposal which concerned the last line of paragraph 3 only: *“Establish open-ended informal consultations guided by the Chair of the PBC to address WIPO governance issues, governance (structure), i.e. those mentioned in the JIU report. The results of these consultations will be presented to the next PBC session and the General Assembly for its consideration and decision”*. He said that the rest of the text stayed unchanged.

607. The Delegation of the Czech Republic was of the view that delegations were moving to a place where they could find compromise and it gathered that the Vice-Chair had consulted with the delegations that had suggested different options. The Delegation said that it was of the impression that there was no opposition to its suggestion to replace, *“i.e.”* with *“inter alia”*, to correct a typo.

608. The Delegation of Brazil thanked the Vice-Chair and wondered whether the *“i.e.”* was supposed to read as *“inter alia”*.

609. The Vice-Chair confirmed that his understanding was that it was “yes”. He thought that the most important issue was that the text should refer to the JIU report, because that report dealt with all the issues. He added that everything that Member States were discussing was covered in that paragraph. However, although Member States had said that this was fundamental, it was not the only issue. The wording left some room for maneuver because complicated decisions had to leave delegations feeling quite satisfied nevertheless. He stressed though that the JIU report was helping delegations focus on their decisions.

610. The Delegation of Iran (Islamic Republic of) wished to say once again that the problem of efficiency of WIPO meetings was not their time or duration but the lack of mutual understanding and something political. The Delegation reiterated that it could not go along with the latest version the Vice-Chair had proposed.

611. The Chair pointed out that, at this stage, plan B looked appropriate.

612. The Vice-Chair (Spain) felt that he had to make one last statement. He wished to express his thanks to all the delegations for the efforts they had made, and acknowledged that it had not

been an easy process. He noted that they had come up with an agreement, but one small element was missing. In his opinion, it would be a great pity if that hampered agreement. He said that Member States would not be doing themselves a favor and they would not be contributing to the expressed desire, one that he agreed with, for achieving mutual understanding and trust.

613. The Delegation of Brazil recalled what it had mentioned at the very start about very clear, small noncontroversial steps. It added that it had also tried to build a new compromise position on informal consultations if they had been limited to some specific points. It recalled that even for that clear terms of reference would be needed. It believed that the text would not respond to these concerns and, therefore, the Delegation could not go along with the language for paragraph 3.

614. The Chair specified that his plan B was not a Chair's summary but a PBC conclusion and suggestion. He then requested the Secretariat to distribute the text to see if it could be gaveled.

615. Speaking on behalf of the African Group, the Delegation of Kenya pointed out that its Group had been very constructive and believed that the issue of governance, which had been on the PBC agenda for a long time, needed to be concluded. It was of the view that Member States should have informal consultations where they could discuss all the issues and finally come up with measures which could not only improve efficiency but also could deal with some of the topics raised time and again by the JIU and other auditors. It believed that this was a very important issue, and, as a Group, it was not fixed in terms of what the final product would be, but wished to have a forum where Members could discuss matters objectively, with an open mind, and come up with a clear way to move forward without prejudging the final outcome.

616. The Chair believed that the Vice-Chair had made a big effort to combine that view, and went on to read plan B conclusion: "*The Program and Budget Committee, having engaged in a constructive discussion on governance-related issues, including on the proposal by the Delegations of Belgium, Mexico, and Spain, document WO/PBC/26, recognized the benefit of addressing the issues of governance, identifying both short- and long-term measures, and recommended to the WIPO General Assembly to further consider this issue.*"

617. The Delegation of Mexico understood that the GA Chair would look for a way to deal with the issue of governance, since this was one of the first recommendations made by the JIU in its management and administration report. It recalled that the PBC was responsible for certain tasks, notably for recommending some tasks to avoid lengthy debates. The Delegation wished to express its disappointment because, yet once more, Member States had noted that there was no openness and trust amongst Members to deal with issues of common importance. It said that, nevertheless, it would continue to be open and constructive, as it had always been, in discussing issues of great importance. The Delegation also wished to make an appeal and remind delegations that, since the Assemblies had many different items to deal with, it was not sure that they would have enough time for full discussion on governance that some delegations had expressed the wish for. It said that they had had consultations on many different issues and reiterated that it would have wished to have made at least some initial steps forward.

618. The Chair, noting that the paragraph in question had just been distributed, wondered if he should adjust it to become a Chair's summary. Then the text would not have the collective recommendation that the issue should continue to be addressed by the GA. The Chair explained that he was putting forward for consideration different options to see how the Committee should close agenda item 20. He said that if Member States wished, he could do a summary, getting into some details on the progress made, and leave it at that with no recommendation in the end. Alternatively, Members could agree that this was still a GA issue and recommend that the GA continue considering it. He asked if delegations had any objections to the text that he had put forward for their consideration. He also asked for the delegations' views, given their experience in the Committee regarding how they would close the

issue. All delegations believed that they would come up with some progress after the constructive engagement they had had, and it seemed that they had been close but did not get to it. The Chair offered to re-read the text, and added that Member States could either take it as a decision paragraph or ask him to submit something different, e.g., a more detailed Chair's description of what happened. Having read the text, the Chair asked if all delegations felt comfortable with it as a decision paragraph, and sought Member States' guidance on how to proceed.

619. The Delegation of Brazil thanked the Chair for the effort to come up with a correct decision that summarized basic ideas but added that it would prefer a decision, as a summary would focus only on the fact that there was a discussion on the issues in the proposal.

620. The Chair said that the Delegation should clarify whether it should be "*the Program and Budget Committee, having engaged in constructive discussion on governance-related issues, did not make any progress*" or "*made some partial progress*", or should suggest an alternative way to end the matter.

621. In response, the Delegation of Brazil said it would leave the language in the hands of the Chair but said that the last proposal was a good basis.

622. The Chair observed that this was clearly not a decision paragraph and that the content would be his responsibility. It would not be a decision but a Chair's text on how he envisioned the discussions.

623. The Delegation of Japan said its question concerned the last part of the decision paragraph. It was not sure whether it was appropriate that the PBC made a recommendation to bring the issue to the GA. The Delegation observed that it might not change the fact that the GA dealt with governance issues in some manner. It added that it was not against the decision.

624. The Chair reiterated that he would have a Chair's text, which would be his responsibility, and added that the failure to make any progress on this issue was completely the membership's collective responsibility. Members would wait to see what the GA said when they dealt with this issue. The Chair said that he would prepare a Chair's text and would try to avoid being biased. The Chair insisted that the text was going to be his own responsibility.

625. The Chair's summary: The PBC, recognizing the need to address the topic of governance, in accordance with the mandate given by the WIPO General Assembly at its 44<sup>th</sup> session (document WO/GA/44/6), engaged in constructive discussions on governance related issues, including on the proposal by the Delegations of Belgium, Mexico and Spain (document WO/PBC/22/26). Several delegations stated that ideas and measures contained in previous proposals merited further consideration and favored a more comprehensive approach. Some progress was made, including the consideration of short term and long term measures and, while no decision was reached, future discussions would benefit from building on the progress made during this 22<sup>nd</sup> session. Such discussions could take into account the texts produced by the Vice-Chair through informal consultations and ideas and suggestions expressed during the plenary session.

## **ITEM 21 EXTERNAL OFFICES**

626. Discussions were based on document WO/PBC/22/25 and Corr. and a reference document WO/PBC/22/List of Countries.

627. The Chair opened the discussion on External Offices (EOs) and explained that the Committee benefitted from the presence of Ambassador Fitschen of Germany available to give an explanation of the process and documents sent forward on guidelines for opening EOs.

628. Ambassador Fitschen (Germany) thanked the Chair and the delegations for the opportunity to present the current state of affairs on EOs and stated that, at the last series of meetings of the Assemblies, it had been decided to continue open-ended consultations, under the guidance of the President of the GA, on the proposed guiding principles regarding WIPO EOs as contained in the Annex of document A/52/5 and on the establishment of WIPO EOs, for consideration and recommendation by the PBC and decision by the forthcoming GA. The President of the GA had requested Ambassador Fitschen to facilitate the consultations on matters concerning WIPO EOs and document WO/PBC/22/25 contained the result of eight open-ended consultation meetings that Ambassador Fitschen had had the pleasure of conducting during the period from May to July 2014. Ambassador Fitschen recalled the general understanding that formed the basis of these informal consultations. In two rounds of organizational consultations conducted by the Chair in March and April it had been agreed that the consultations mandated by the GA should, in the first step, look at the draft guiding principles as they had emerged from several previous annual rounds of negotiations under two different Ambassadors, and submitted by a certain number of states in (document A/52/5). Discussions on the number and location of the new offices should only commence in the second step after the draft guiding principles had indeed found support of all delegations, meaning that once full clarity about the exact content of the guiding principles had been achieved the draft would be put aside and the consultations would enter into the second phase about the number and location of offices. It was the common understanding that the final adoption of guiding principles and decision about numbers and locations were supposed to be taken together or in parallel. The logic behind this was that one Group of States said they needed full clarity about the criteria to be applied to new offices and the procedure on how to set them up, before they could even enter into any discussion about where to locate them and *vice versa*; another Group insisted they were not in a position to agree to any set of guiding principles without full clarity about where the new offices, or at least where a first set, would be located. This was the link between the two issues. On this basis Ambassador Fitschen had conducted eight rounds of informal consultations, the last one on July 11, 2014, the result of which was in document WO/PBC/22/25, dated 23 July, 2014. Compared to the initial version of December, 2013, which had been taken as the starting point, the text had undergone considerable changes and was improved considerably, but as could be seen there were still square brackets left in three paragraphs: 1, 3*bis* and 22. All the rest had been cleared in the sense indicated earlier. Of the three paragraphs mentioned, paragraph 22 which was a new paragraph originally submitted by one Group, had been the most controversial until the very end of informal consultations. At the close of consultations there had been three alternative formulations submitted by three different Groups of Countries. As there had been no agreement in sight, work had to be concluded with the entire paragraph 22 in brackets. Ambassador Fitschen concluded by thanking the Chair for the opportunity to present the conclusions of informal consultations.

629. The Chair thanked Ambassador Fitschen for taking the time to come and make the presentation and reminded delegations that the issue was an agenda item. The Chair indicated that the Secretariat had nothing to add as introduction and so opened the floor for comments, with a request for the delegations to abstain from reiterating their previous positions and to give their views on making a recommendation to the GA.

630. The Delegation of Ethiopia commended Ambassador Fitschen and aligned with the statement made by the Delegation of Kenya, speaking on behalf of the African Group, the previous day. The Delegation stated that the establishment of two EOs in Africa should be given priority. The Delegation stressed that one of the ways of assisting Africa and bridging the gap on IP and ensuring innovation and creation, and also ensuring that Africans benefit from IP tools and their resources, was through opening EOs. Yet, the African region (comprising 54 countries) did not even have one EO of WIPO. So far there was a proposal from the Secretariat to establish two offices for Africa, out of the five offices for the 2014/15 biennium, which had been approved in 2013. The Delegation strongly believed a decision needed to be

made on the opening of two EOs for Africa, before looking at applications on a country-by-country basis.

631. The Delegation of Kenya, speaking on behalf of the African Group, thanked Ambassador Fitschen for the round of consultations. As it had said in the opening statement it considered the conclusion to the setting up of the EOs to be of paramount importance and looked forward to this Committee making that possible. The Delegation thanked the Delegation of Ethiopia for the clarification regarding the African region and did not want to add to that, but stated that there was a need to finalize the Guiding Principles, the numbers and the location of EOs. All of that should be adopted as a package, this was critical for the Group. This was the Group's firm position on which it would not compromise.

632. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked Ambassador Fitschen for his commitment in the eight consultations to find agreement on the guidelines for the opening of EOs. However, in spite of the efforts by the Ambassador and the great flexibilities assured by GRULAC, regrettably no document could be agreed on by consensus. GRULAC urged all delegations to work in an open-minded way and show political will for the approval of the guidelines. As mentioned on previous occasions, GRULAC attached very great importance to this issue, believing that it was essential to have a document to guide the opening of EOs using clear and transparent processes. The Delegation reiterated GRULAC's interest in having an external office open in 2014/15 in the region

633. The Delegation of El Salvador aligned itself with the statement made by GRULAC and thanked Ambassador Fitschen for the process of consultations and the impetus that he had provided to it. It also thanked the Secretariat for guidance and support, especially for the support received on some aspects where in the past the Delegation had some concerns. The Delegation recognized the support of other delegations over paragraph 11, which enabled the Delegation to go along with this process and, on paragraph 22, welcomed all the contributions made by other Groups and by friendly delegations.

634. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, expressed appreciation for the work done on the topic of WIPO EOs and especially, but not limited to, Ambassador Fitschen. It stated that the CEBS had engaged constructively in all stages of informal consultations that had taken place so far and noted with disappointment the inability to arrive at a solution. However, since the long-term strategic orientation of the Organization was at stake, the CEBS Group was ready to engage further. The Delegation affirmed that the CEBS considered the Guiding Principles a document that would guide steps in this regard, not only in the current biennium but beyond, including guidance on the work of the existing WIPO offices. Therefore, the Guiding Principles were not merely a document to get out of the way and move on to the size and shape that the WIPO network of EOs would take in the next biennia. The CEBS remained strong in the stance that first it was necessary to reach consensus on Guiding Principles before any further steps were taken and that all delegations needed to understand what the future network as a whole, as well as its individual elements, would deliver to the entire Organization and its membership. The CEBS continued to disagree with an uncontrollable and unmanageable proliferation of the WIPO network of EOs, but could support development of a well-functioning and value-adding network of EOs, it being necessary to continue constructive debate with all Member States on the costs and benefits of EOs, not only economic but also strategic and finalize the Guiding Principles as soon as possible. The CEBS reiterated that the Guiding Principles still remained the focal part of the work and that the CEBS continued to invite all Member States to finalize the text of the Guiding Principles as soon as possible. The CEBS Group inquired whether the list of requests posted under related documents on the PBC website would become an official PBC document or if it would be transferred to the GA for discussions on this point.

635. The Delegation of India expressed appreciation and gratitude to Ambassador Fitschen for conducting the consultations in order to finalize Guiding Principles regarding WIPO EOs, as well

as the Ambassadors of Belarus and Singapore for previously held consultations, which actually provided the foundation for the Guiding Principles. The Delegation wished to comment on the remark made by the CEBS Group about the concern regarding an uncontrollable and unmanageable proliferation of EOs network as observed in several UN organizations, all being specialized agencies which had several country offices, external or regional offices. It noted that as it saw the value of and the need for IP increasing in different parts of the world, WIPO wanted to reach those parts of the world. Therefore, when there was a general requirement and feasibility, consideration should be given to it by the WIPO Member States at the PBC or the GA to address that need and provide for EOs. The Delegation was confident that this would not result in 180 WIPO EOs as all delegations were prudent enough. The Delegation further stressed its support for the proposal made by the Chair of the GA for the two-step process as also explained by Ambassador Fitschen: for having Guiding Principles and then deciding on the number and the location of the offices. It looked forward to the finalization of the Guiding Principles, having participated constructively in the consultations for almost two years, and to further participating in constructive talks. The Delegation felt that, in several regions, there was a need for technical assistance and development which could not be ignored. Financial feasibility, technical assistance and development and capacity-building needs also had to be looked at in a holistic manner in order to take a decision.

636. The Delegation of the Republic of Korea pointed out that there was a draft of Guiding Principles, the text of which was almost agreed on by Member States. The Delegation believed that returning to the earlier stage of the discussion was not feasible. The Delegation stated that the position of the Republic of Korea had been clear and consistent: the establishment of the principles came first and the numbers and locations for the new offices should follow. To the Delegation it looked the same to allocate numbers of EOs in some regions or to restrict numbers before finalizing the principles. It added that concerns over the removal of numbers, for example, were already reflected in the principles and that the concerns of the African Group could also be considered in the course of implementing the principles.

637. The Delegation of Japan, speaking on behalf of Group B, expressed its sincere gratitude to Ambassador Fitschen for his tireless and faithful efforts to find consensus through eight rounds of consultations during which some gaps were filled in and a successfully and mutual understanding had been deepened, although some divergent points remained. The Delegation stated that Group B had been involved in, and positively contributed to, this issue, including the informal consultation process, bearing in mind that the EOs would be WIPO offices and that the network of EOs would be an important part of the Organization. The Group welcomed the establishment of EOs as far as the network thereof were to be aligned with, and contribute to, WIPO's strategic goals and did not reduce financial sustainability of the Organization. Group B continued to believe that Guiding Principles must function as a framework which enabled a network of EOs to contribute to the achievement of the objectives of the Organization in a sustainable manner and, although several important and critical points still remained, Group B wished to underline that PBC-related issues had already been tackled and the appropriate body to further tackle the remaining points was the GA. The Group proposed that the PBC forward the text to the GA and recommend that GA give the matter further consideration based on that text, and take a decision at the coming session. Furthermore, discussions in the PBC, such as another informal consultation process, might overcomplicate the future process and should be avoided.

638. The Delegation of Pakistan expressed appreciation for the hard work done by Ambassador Fitschen. The Delegation stated that Pakistan had consistently maintained that finalizing Guiding Principles was essential before taking the process forward, keeping in mind the limited resources of the Organization. It believed that defining the needs and a feasibility study to see how the establishment of new EOs fitted in the overall framework of the Organization would be very important and the Delegation looked forward to further contributing to the process.

639. The Chair summarized that there had been no changes of positions and a statement by Group B said that the PBC-related issues regarding this decision had been taken care of. The Chair confirmed that the sole course of action at this stage was to report this to the GA and have it direct the Chair of the GA to come up with a convergent mechanism when the GA met at the end of this month. The Chair gave the floor to the Secretariat to respond to an earlier question.

640. The Secretariat stated that during the informal consultations prior to the current meeting, some delegations suggested the list of countries which had expressed interest in hosting an EO should be produced as an informal document, to be distributed to delegations during the PBC. It added that this was a Member State-driven process so if the PBC felt it necessary to issue the List of Countries as a formal document and make it part of the recommendation to the GA, the Secretariat was happy to do this. The Secretariat understood that this was suggested by the Delegation of the Czech Republic unless there were suggestions from other delegations.

641. There being no further comments the Chair considered the discussion on this item exhausted. The Chair further stated that he would prepare a very short text acknowledging the facilitation of Ambassador Fitschen and his predecessors, saying there were no changes in positions and sending the matter back to the GA, which was what the Chair understood came out of the discussions, as there was no progress regarding this agenda item.

642. Upon resumption of discussion the Chair proposed a decision paragraph: *“The PBC expressed its gratitude and thanked Ambassador Fitschen of Germany as well as other Ambassadors who previously facilitated consultation on matters concerning WIPO external offices that concluded in the document contained in WO/PBC/22/25. Noting that there were no changes in positions of delegations or groups, the PBC recommended to the WIPO General Assembly to further consider this issue.”*

643. The Delegation of the United Kingdom considered the text fine to adopt.

644. The Delegation of Paraguay, much like the Delegation of the United Kingdom, expressed its support for the Chair’s proposal, which it believed would allow continuation of discussions on the issue and looking at the document after the consultations with facilitators. The Delegation also recalled that GRULAC had made a proposal on paragraph 22 which, logically, would be part of future discussions on this issue.

645. The Chair re-read the proposed decision text. In the absence of any objections he declared it adopted.

646. The Program and Budget Committee (PBC) expressed its gratitude and thanked Ambassador Fitschen of Germany, as well as other ambassadors who previously facilitated consultations on matters concerning WIPO External Offices that concluded in the document contained in WO/PBC/22/25. Noting that there were no changes in positions of delegations and Groups, the PBC recommended to the WIPO General Assembly to further consider this issue.

## **ITEM 22 PROPOSED DEFINITION OF “DEVELOPMENT EXPENDITURE” IN THE CONTEXT OF THE PROGRAM AND BUDGET**

647. Discussions were based on a background document WO/GA/43/21.

648. Opening item 22, the Chair recalled the need for coming up with a decision regarding the proposed definition on development expenditure in the context of the Program and Budget. He further recalled that in approving the Program and Budget for 2012/13, the PBC decided that the definition of development expenditure was to be considered an interim definition for purposes of the Program and Budget for the biennium 2012/13. The PBC had also decided that

the Chair of the PBC would convene informal consultations “with a view to evolving a more precise definition of development expenditure in the context of the WIPO Program and Budget. The revised definition would be submitted to the 19<sup>th</sup> session of the PBC for consideration and recommendation for approval by the GA. The revised definition would be used for the preparation of the Program and Budget for the next biennium, 2014/15.” The PBC at its 19<sup>th</sup> session “welcomed and took note of the Chair's proposal for a more precise definition of development expenditure and took note of the Member States' comments.” The Committee invited members to continue the consultations on the Chair's proposal and also requested the Secretariat “in addition to applying the current interim definition, to test the proposed definition, as evolved before the next session of the PBC against the draft of the 2014/15 Program and Budget and to clarify the significant differences between the current and proposed definitions.” This was without prejudice to Member States' positions on the adoption of the Chair's proposal contained in document WO/PBC/19/25. The Committee had decided that the issue of the definition of development expenditure would be an agenda item for the 20<sup>th</sup> session of the PBC and a revised definition if agreed upon would be applied for the Program and Budget 2016/17. The PBC, at its 19<sup>th</sup> session, took note of testing the definition against the draft proposed 2014/15 Program and Budget and clarified significant differences between the current and proposed definitions and decided to continue discussions on the proposed definition of development expenditure during the 20<sup>th</sup> session of the PBC. At its 20<sup>th</sup> session, the PBC considered the background document, WO/PBC/19/25, and recommended to the WIPO GA to consider this issue and take appropriate action. The WIPO GA, at its 43<sup>rd</sup> session, considered the document WO/GA/43/21 and “requested Member States to engage in informal consultations with a view to finalizing the definition of development expenditure in the 22<sup>nd</sup> session of the Program and Budget Committee in time for the preparation of the Program and Budget 2016/17.” The Chair emphasized that it was important to provide guidance to the Secretariat on the definition of development expenditure for the preparation of the 2016/17 Program and Budget and added that there were two documents before the Committee: the current definition and the development expenditure definition proposed by the Chair.

649. The Secretariat reiterated that the document before the PBC was document WO/GA/43/41 entitled “Proposed Definition of Development Expenditure in the Context of the Program and Budget.” It contained the current definition of development expenditure as contained in the Program and Budget 2012/13 and 2014/15 and the revised definition proposed by the then Chair of the PBC. It also contained questions and answers. There had been several sessions where a number of questions and clarifications had been sought on the development expenditure and these were all compiled for reference in the document. The document also contained e-mails and communications by the different groups containing their views in respect of the Chair's proposal.

650. The Chair opened the floor for comments reiterating that the Committee was faced with the definition that was currently being used (Annex A), and the revised definition put forward by the Chair of the PBC (Annex B), which had an illustrative enumeration of activities.

651. The Delegation of Japan, speaking on behalf of Group B, reiterated that it continued to believe that the current definition of development expenditure worked well and that therefore there were no substantial reasons to justify the necessity to change the definition. On the other hand, the PCT subsidies were an important part of the benefit for developing countries. It therefore would be logical that this important benefit be counted under the current definition. The Delegation expressed concern that such an insufficient interpretation and application of the definition would provide an incomplete picture of assistance to developing countries provided by WIPO. The Delegation further referred to the briefing on WIPO development activities in July, at which the Director General introduced such activities by using the figure 21 per cent as per the current definition. The Delegation had been impressed with the comprehensiveness of the technical assistance provided by WIPO and Group B very much appreciated the wide range of development activities provided by WIPO. The Delegation further reiterated its sentiments, based on facts presented by the Secretariat, that WIPO (which was mostly supported by income



from users) devote a great amount of money to development activities. Last but not least, the Delegation believed that any definition of “development expenditure” should be merely descriptive and only serve for accounting purposes, namely, to quantify WIPO efforts in that field. It also deemed that such efforts should include the assistance in favor of innovators from developing countries.

652. The Delegation of Kenya, speaking on behalf of the African Group, supported the revised definition of development expenditure as proposed by the Chair of the PBC. The definition was much clearer and would allow Member States to be able to ascertain and track the expenditure destined to development. The External Auditor’s report pointed out that the resources for Program 9 had decreased and currently constituted 52.21 per cent when compared to the 2008/09 levels. The report also noted the current definition of development expenditure, the nature of the activities covered, the intended impact on development and the inclusion of expenses like travel and DSA in the development share. Recommendation 7 in that report stipulated that WIPO may clearly define development expenditure and formulate a method for determining the development share under each program and activity, so that the effectiveness of the mainstreaming exercise could be assessed objectively. Furthermore, the External Auditor recommended that WIPO continue implementation of a robust tracking system to ensure availability of data on actual development expenditure against the estimates. The Auditor also pointed out that there was no budget code allocated to capturing development expenditure in substantive programs and that, in the absence of such link, actual expenditure could not be tracked. The Delegation further noted that, during the last meeting of the PCT Working Group, new criteria for determining the eligibility for PCT fee reductions had been adopted. The new criteria, based on income and level of innovation, did not differentiate between developed and developing countries and the beneficiaries would include developed countries, i.e. countries in the EU. Therefore, the African Group did not favor a definition of development expenditure which would include fee reductions as part of the development share since the incentive would now be available to both developed and developing countries alike. The Delegation further noted that fee reductions represented income available to the Organization as a whole and that the new criteria should not be used to penalize developing countries. If there were to be cuts because of some initiative, they should apply across all programs and activities. Lastly, the Delegation stated that personnel costs could not be considered as development expenditure in the strict sense of the word. The Delegation concluded by urging the Committee to adopt the definition as proposed by the Chair of the PBC.

653. The Delegation of Iran (Islamic Republic of) recalled that in approving the 2012/13 Program and Budget, the PBC had decided that the definition of development expenditure should be considered an interim definition for purposes of the Program and Budget for the 2012/13 biennium. The Delegation further recalled that it had been decided that this definition would be refined further in informal consultations by the Chair of the PBC, with a view to evolving a more precise definition of development expenditure in the context of WIPO Program and Budget. The proposed definition of development expenditure in the context of the Program and Budget had been discussed at the 19th, 20th and 21st sessions of PBC, held in 2012 and 2013 respectively, but Member States had not yet reached any consensus about the definition of development expenditure. There was, however, a need for Member States' guidance to the Secretariat in order to prepare the Program and Budget for 2016/17. The Delegation strongly believed that it was important to have a precise definition, a definition that could be trusted by Member States and which could accurately show the amount of resources that the Organization was spending on development activities. The interim definition had been agreed to in order to further discuss how the definition could be improved and made more precise. The Delegation stated that it would be a disservice to the Organization if the next Program and Budget would be based on the imprecise definition of development expenditure. The Delegation further referred to the External Auditor’s report regarding the allocation of resources to regional bureaus and other substantive programs which had not been clear and precise. The Auditor had therefore recommended that *“WIPO may clearly define development expenditure and formulate a method for determining the development share under each program and activity so that effectiveness of*

*the mainstreaming exercise can be assessed objectively*". The Delegation noted that this implied that the existing definition was not precise. It was therefore necessary to have a more precise definition. It would help not only developing countries but also help Member States to have a better assessment of development expenditure. The Delegation stated that it would like to see a definition of development expenditure as proposed by the Chair of the PBC and called upon all delegations to engage in the discussion to arrive at a more precise definition for development expenditure based on the Chair's proposal. Finally the Delegation noted that it would find it difficult, in the next PBC, to go along with a Program and Budget based on the current definition.

654. The Delegation of Brazil recalled that this was the fourth consecutive session of the PBC that the definition of development expenditure was being discussed. It therefore sincerely hoped to conclude the debate at the present session. The Delegation stated that the best way to determine the line of action would be to perform a precise diagnosis. Therefore, the more accurate the definition of development expenditure would be, the better Member States would be in the allocation of resources. It therefore strongly believed that the definition proposed by the former Chair of the PBC should be utilized for the Program and Budget for the next biennia. It noted that it would have further comments, as would other delegations, but realistically, the new definition managed to capture the main elements emanating from the consultations with Member States. In particular, the Delegation welcomed the fact that the definition set out in more details the requirements that the activities should meet for the corresponding resources to be qualified as development expenditure.

655. The Delegation of China noted that the issue of development was very important to WIPO. Having a more specific definition for development expenditure was also extremely important to ensure a better allocation of available resources and a better follow-up on the way those resources were used. Development expenditure was also very important for developing countries, especially LDCs. The Delegation was of the opinion that development expenditure should be used directly to assist and encourage development of developing and least-developed countries. The Delegation believed that having such a definition would help all parties to better understand the Organization's ongoing development activities. Linking indirect costs related to development activities would perhaps lead to a misunderstanding of the resources devoted to this area and it might complicate good analysis of ongoing activities. The Delegation felt that the current definition was quite precise. The Delegation stated that it was ready to continue discussions with other parties so as to come up with a definition which could be based on consensus.

656. The Chair requested the Delegation to clarify whether it was supporting the current definition i.e., the definition contained in Annex A of document WO/GA/43/21.

657. The Delegation of China clarified that it supported the new definition proposed by the previous Chair of the PBC.

658. The Delegation of South Africa supported the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation stated that it preferred the revised definition of development expenditure since it was narrower in scope and allowed for easy accounting. The Delegation was of the opinion that the current definition was too broad and it was unsure how development expenditure could be unpacked only to developing countries and what the nature of the provided assistance was. The Delegation stated that the issue was obviously important and had been flagged by the External Auditor who pointed out that regular expenses, such as travel and DSA, were covered under development expenditure. The Auditor's report also contained recommendations 7 and 8 in this respect. The Delegation was willing to engage in further discussions but it was of the opinion that the revised definition was preferable.

659. The Delegation of Spain supported the statement made on behalf of Group B. It was of the opinion that development expenditure should cover expenditure which actually

corresponded to development. However, the Delegation was of the opinion that there should be no discrimination between types of development expenditure. It referred to the example of developing tax collection systems in individual countries. When preparing an expenditure or subsidy for a specific policy purpose, one could compute expenditure two ways. If an exception was to be made, a tax break, an exemption would be provided from the general revenue and the tax system would compute it, measure it and put it in the system because that would also be considered to be a specific type of expenditure. In case it was not done this way, one would not take fully into account exactly what the effort had been and one would not be able to make the appropriate calculations. The Delegation concluded by stating that, therefore, development expenditure should not be subject to discrimination on the basis of the way in which the expenditure was carried out.

660. The Delegation of El Salvador supported the definition proposed by the former Chair of the PBC since a great deal of effort had gone into coming up with that definition. The Delegation, however, continued to be open to engaging in any further work required on this issue in order to build consensus.

661. The Delegation of the United States of America supported the statement made by the Delegation of Japan on behalf of Group B. Its objective for this issue was to aim for a more precise definition in order to better identify all the pertinent costs allocated for development activities of the Organization. The Delegation was still concerned about the Chair's new definition as it was excessively detailed. It noted that such definition should not have an exhaustive list of activities deemed to be development assistance. It believed that any definition must be descriptive for accounting purposes and that the scope of the definition must capture the comprehensive work and the services that WIPO and its Member States provide developing countries, including the various funds-in-trust to finance development activities and IP office modernization projects. The Delegation supported the inclusion of PCT fee reductions as a factor in the definition. The Delegation was concerned whether the Committee could agree on a new definition that adequately took into account WIPO's development impact in the field of IP. An exhaustive list was not practical. If WIPO's complete spectrum of activities in this area were not part of the assessment, the definition would be considered inadequate by the Delegation. It therefore supported retaining the current definition.

662. The Delegation of Kenya stated that the PCT fee reductions were no longer applicable to developing countries alone. The new criteria proposed by the last PCT Working Group were based on income and innovation and did not discriminate whether the beneficiary was a developing or developed country. It applied equally to all countries which would qualify for it. The Delegation further stated that fee reductions were not only an incentive to developing countries but were an incentive to every country. So the distinction between developing and developed countries was not relevant any more in the context of the issue of fee reductions. The Delegation further noted that one of the rationales for introducing fee reductions, in 2006 or 2007, had been to reduce the surplus, which Member States had felt had been too big. The Delegation pointed out that, from that perspective, the fee reductions went beyond the initial criteria. The proposals for fee reductions for universities and SMEs were similar, i.e., regardless of whether universities or SMEs were from developing or developed countries. So if there was a surplus which Member States did not want to accrue to the Organization, it would mean that it would be of no benefit to the Organization or to Member States. The Delegation therefore asked why one would then want to bring it into accounting again and how it could be considered foregone revenue when it was a deliberate exercise to reduce such a surplus. The delegation wondered how a direct policy intervention could become a foregone revenue since this was moving beyond the incentive of developing countries. The African Group would therefore find it challenging to accept a definition which incorporated fee reduction as part of the expenditure. The Delegation also stressed the need for being very pragmatic and objective. It was not aiming for a certain level, like 21.5 per cent, of development expenditure but stressed the need for being able to ascertain the amount of resources and the impact. RBM was the tool for measuring impact and there was a need for being very specific and very clear what should be

measured in order to be able to measure that impact. The debate in the PBC was not about how much money had been spent but whether the money being spent was being spent on the right things and whether it was having an impact. What mattered most, and would be sufficient, was that even if only very little money was being spent it would have a great impact. The Delegation therefore wished to see a focused definition without showing a very big development share. A big development share would not solve anything for neither developing nor developed countries. What the Delegation wished to see was whatever resources would be devoted to the development share and that these resources contribute to change which would really benefit developing countries.

663. The Chair noted that there did not seem to be any changes in delegations' positions nor any new proposal but rather an alignment around the two options on the table. He noted that Group B was comfortable with the current definition and the exclusion from that definition of foregone revenues resulting from fee reductions. The Chair noted that this appeared inconsistent with the statements made on including fee reductions. The Chair sought clarification as to whether this was related to the discussion of the expression "*to reduce the cost of its use*" in the new proposal.

664. The Delegation of the United States of America responded that it believed that the task before the PBC was to entertain developing a new definition that we would tackle the issue of whether reduction of patent fee costs would be included. If such a new definition could not be agreed upon, the Delegation believed that the figure indicated as development expenditure, around 21 per cent, may be too low if patent fee reductions were not included. Therefore, a new definition would have to include that. The Delegation also noted that since there seemed to be an *impasse* regarding agreeing on a new definition, it believed the current definition would stand. The Delegation also noted that the reason for including the PCT fee reductions was because it had a direct positive impact on development. It provided entities in developing countries the opportunity to participate in the patent system and therefore to be patent-holders and to have increased economic development in that area.

665. The Delegation of Germany aligned itself with the statement made on behalf of Group B and the Delegation of the United States of America. The Delegation stated that it only understood the old definition and was completely puzzled with the new definition because it was so detailed and descriptive whereas the old one was quite simple and easier to understand. The Delegation further referred to paragraph 30 in the Program and Budget 2012/13 which stated that development expenditure excluded foregone revenues resulting from the fee reductions accorded under the international registration systems for applicants from developing countries. The Delegation noted that if such expenditure were to be included, the overall figure for development expenditure would be higher. The exclusion was therefore a voluntary exclusion of something which was included under the current definition.

666. The Delegation of France expressed its concern with the new definition due to the sheer level of detail in it. The Delegation stated that there was a risk of adding excessive red tape to the Secretariat's burden, as it would add another level of bureaucracy to all Programs from the smallest to the largest, including those which were not directly concerned. On substance, the Delegation was perfectly happy with the fact that, despite budget difficulties, bilateral and multilateral aid levels were being maintained, including through the UN System. It noted that its country had selected those organizations within the United Nations system through which it provided development aid e.g. UNDP and others. The Delegation noted that this debate did not normally take place within the UN specialized agencies. The Delegation questioned what the issue was with having a 21.4 per cent development expenditure and noted that, as far as the Delegation was concerned, it was sufficiently clear and that it was an enormous percentage for an organization whose constitutional documents did not even refer to a development-related organization. The benefits were coming later, obviously, but as an indicator, this was perfectly adequate for the Delegation. It was perfectly satisfied with the information currently provided



and, therefore, did not see the need, nor the reason for going into something excessively bureaucratic, which would distort the initial identity of the Organization.

667. The Delegation of Kenya referred to the report of the External Auditor, which noted that the resources for Program 9, which was supposed to be at the core of the development expenditure, had decreased by 50 per cent because some resources had been moved to other substantive programs. The Program was supposed to be the custodian of Master Plans which other substantive programs were supposed to implement. Had the resources been used by Program 9 it would be easier to monitor. The report of the External Auditor pointed out that it was difficult to follow resources in other programs. The Delegation stressed that it was not a matter of trying to achieve any legal obligation whereby some ratio of development expenditure had to be met. The issue was rather to show how resources had been moved. However, it was not possible to ascertain those resources because they were not under Program 9 but had been mainstreamed in other substantive programs. In order to be able to quantify and monitor, a clear definition was needed. The Delegation stressed that it was not really the amount of money going to development, which was the critical issue, but rather the resulting impact. In order to better assess the impact a clear definition was needed. In the case where resources on the ground had no impact, it would be useless to spend those resources. The Delegation stated that it was being very pragmatic. It was not about being given a share and be satisfied with it. The issue was to enhance efficiency, effectiveness, and to achieve tangible outcomes. That could only be assessed with a clear definition. The Delegation reiterated that it would be appalled if money was spent on development and there was no impact. Impact was what really mattered for developing countries. Whether the development share was 50 or 80 per cent, if it was spent with no impact, there would be no need to spend it. Those resources could be put to better use elsewhere. This was the reason why the Delegation was insisting on a clear definition. As regards fee reductions, those were open to everybody who qualified for them and, as such, they were not benefitting developing countries only.

668. The Chair stated that, personally, he also had some difficulties with the issue because when engaging in the process of the Program and Budget, Member States would be deciding and proposing not only the allocation of resources for specific programs but also what would benefit developing countries and the related indicators. The Chair, therefore, understood that it was important for many, if not most delegations, to have this accounting instrument. However, when engaging in the Program and Budget process, the most important thing was to fight for the programs and indicators of interest.

669. The Delegation of the United Kingdom wished to remind delegations of the process on this issue to date. It recalled that there had been times when there had been no definition of development expenditure. The initiative had come from Group B, because it had wished to have very transparent information from the Secretariat on all expenditures, including development expenditures. When the initiative had been launched to ask the Secretariat to come up with a definition it had been supported by other delegations as well. The Secretariat had come up with a definition, which was not perfect and could be improved. At that point, it had been decided to have a process, led by the former Chair of the PBC. The Chair launched several informal consultations, negotiations, discussions and delegations had worked very hard to define a better definition. The Delegation stated that this process had failed, probably because it was very difficult to get an exact definition that would suit all delegations. The Delegation stressed that the most important issue was not the definition but the fact that Member States had access to all information on expenditures, including development expenditures, in a transparent manner. The Delegation believed that this was currently the case and, therefore, a very pragmatic solution should be found without repeating issues already raised in the past. The Delegation stressed that its financial experts believed that in case everything would be included under the definition, this should apply to fee reductions as well because they also benefitted developing countries.

670. The Chair asked delegations how they wished to proceed since a definition was needed, and there were two choices: either an agreement to keep the old definition, which was clearly not acceptable to most of the delegations which had taken the floor, or a new definition. So a process was needed. The Chair was of the belief that the plenary was not the ideal format for having substantive discussions on the text. Some sort of informal process was needed. The Chair suggested that the informal process be facilitated by one of the Vice-Chairs and would start with the text currently available. The process would include important discussions with all delegations on their flexibilities.

671. The Delegation of Kenya expressed its support for the Chair's proposal. It pointed out that all Member States placed a premium on evaluation and auditing. When the External Auditor (who was an official contracted by the Organization to review its programs and activities) had come up with a recommendation that new definition was needed as the current one was not precise, it would be a problem if Member States said that it was not a useful recommendation. The Delegation pointed out that the definition had been tested and the auditor had given his recommendation, and this was clearly part of what would be discussed. It stressed that it was working based on empirical evidence and quoting from the audit report. The Delegation further stressed that the issue had been referred back to the PBC by the GA, and that the report by the JIU and the auditor's report should be taken into consideration during the discussion. The Delegation insisted that it was the impact which mattered and noted that some reports suggested that an impact could not be ascertained, so the question was whether money was going to be spent irrespective of whether there was an impact or not. That was why a precise definition was important.

672. The Chair noted that the Committee would not be able to come up with a definition that would illustrate and change the views which the External Auditor would share with the Committee later. Therefore, the effort should be focused on trying to get a definition for the next process that would help the External Auditor having a better assessment in the future. The Chair recalled that the proposed new definition was being tested by the Secretariat and the results would be shared with the Committee. In the meanwhile, the Chair wished to focus on the process. He proposed that the Vice-Chair (Poland) try to start the discussion on this issue. The discussion was adjourned to allow for consultations.

673. Resuming discussion, the Chair invited the Vice-Chair to explain how the proposed definition on development expenditure was arrived at in order to facilitate further consultations.

674. The Vice Chair (Poland) recalled that the issue of development expenditure had been a long-standing item on the PBC agenda. He noted that, from the consultations, it had emerged that the views on the topic were quite divergent. Therefore, he was suggesting a revised definition, which was based on the previous Chair's definition but which also included elements from the current definition. The revised definition was a shorter version that tried to grasp the essence of both definitions on the table, and reflect the ideas and thoughts that had been conveyed throughout the informal consultations.

675. The Chair noted that any reaction to the revised definition would be preliminary only but that, essentially, it was a merger of Annex A and B of the Assemblies document. He proposed to start the following day with delegations' reactions to the revised proposal. In the meantime, the Chair encouraged delegations to engage in informal discussions on the proposal.

676. The Delegation of Algeria requested whether, in order to facilitate decision making on the development expenditure proposal, the Secretariat could provide a testing of the revised proposal.

677. The following day the Chair invited the Vice-Chair to report on the progress made in informal consultations.

678. The Vice-Chair (Poland) recalled that consultations had started the previous day with Group B and the African Group and added that he had received a response from Group B and was still waiting for comments from the African Group. Keeping in mind the big diversity of opinions on the two definitions, the Vice-Chair had decided, with the consent of the Chair, to prepare a third version of the definition. This third draft was based on the second definition, with some minor changes. The Vice-Chair concluded by saying that this represented the current state of the negotiations.

679. Further discussion was adjourned due to the absence of some regional groups.

680. Reopening the discussion, the Chair recalled that delegations had three texts before them, including two that had been with the Committee for some time. The second definition had been the result of a consultative process. The first definition was the current definition included in Annex A. Annex B contained the proposed definition by the former Chair, which had not been adopted due to lack of agreement. There was also an intermediate definition which contained elements of both, but also left things out. The Chair inquired in which direction the delegations wished to proceed, as the session was about to end and there was no development expenditure definition, without which there would be no development expenditure accounting. The Chair noted that not having development expenditure accounting could be one possibility. Another possibility, in case of no agreement, would be to resort to the current definition, in which case the Committee would have to be explicit and clear in directing the Secretariat to use that definition for the next budgetary cycle. The third possible outcome was to come up with an agreed definition. In the case of any of the first two outcomes, there could be a mandate to continue the discussions. The Chair encouraged delegations to consider whether there was any possibility in reaching the third possible outcome, i.e., an agreement on the revised definition and collectively sorting the issue once and for all thus fulfilling the mandate given to the PBC by the GA. The Chair added that if, after an exchange of views, option 3 was not viable, members would have to explore options 1 and 2.

681. The Delegation of Japan noted that it was completely fine with using the current definition during the next biennium. The Delegation was of the view that the current definition was precise enough and appropriate to use. The Delegation noted, however, that some other groups wanted a more precise definition. The Delegation was therefore engaging in the discussion in a spirit of constructiveness. It encouraged other groups also to engage constructively in a discussion based on the Vice-Chair's proposal.

682. The Delegation of Kenya noted that the two definitions in Annexes A and B had been used in 2012/13 and 2014/15 respectively.

683. The Secretariat clarified that there was only one definition used for the biennia 2012/13 and 2014/15, since there had been no agreement on the previous Chair's proposal. This definition could be found in Annex A.

684. The Delegation of Kenya requested clarification as to whether the definition in Annex B had been tested for the biennium 2014/15.

685. The Secretariat clarified that indeed that definition had been tested but on the 2012/13 Program and Budget. The current definition had been applied in 2014/15.

686. The Delegation of Kenya reiterated that the African Group preferred the proposed revised definition by the former Chair. However, in order to make progress, the Group was willing to work on Vice-Chair's proposal as long as the elements that had been removed were reintroduced to the text. This would imply reintroducing the list of activities.

687. The Chair sought clarification from the Delegation of Kenya on whether this would mean that the Delegation would be willing to discuss the Vice-Chair's proposal after bringing back to

the proposal the elements relating to the economies in transition. The Chair also asked whether the Delegation would agree to withdraw the word “*directly*” in the first paragraph.

688. The Delegation of Kenya clarified that it would be willing to consider some of the changes which had been proposed, as long as the discussion would also focus on the elements which had been removed.

689. The Delegation of Brazil supported the proposal made by the Delegation of Kenya to reintroduce the elements which had been removed and to continue the discussions on the merit of the content.

690. The Chair reiterated that there were three proposals before the Committee: the definitions in Annexes A and B and the Vice-Chair's proposal. Group B had stated that it preferred the definition in Annex A but could consider the Vice-Chair's proposal. The Delegation of Kenya had stated that it could consider some minor adjustments to the definition in Annex B, although the Chair was not entirely clear which adjustments. The Delegation of Brazil had supported the proposal by the Delegation of Kenya. The Chair noted that he was not seeing much of an attempt to compromise but invited additional delegations to take the floor.

691. The Delegation of Japan reiterated that Group B preferred the current definition. It noted, however, that the Vice-Chair's proposal was based on the former Chair's proposal and therefore that proposal could be used as a basis for the discussions. The Delegation was open to bringing back to the Vice-Chair's proposal the elements which had been removed from the former Chair's proposal, in order to make that the basis for the discussions. The Delegation requested whether the elements which were proposed to be brought back could be specified.

692. The Delegation of the United Kingdom reiterated that it could live with the old definition. The Delegation acknowledged the interventions by the African Group and the Delegation of Brazil, and noted that they had considered the Vice-Chair's proposal and had commented on it, and that therefore the Delegation of the United Kingdom was also willing to consider the Vice-Chair's proposal and the reintroduction of various elements into that proposal. In this context, the Delegation highlighted that the elements which were part of the former Chair's proposal was an exhaustive list which the Delegation wished to avoid. Specific language would therefore be required to develop that list so that activities which were not explicitly mentioned could potentially also be considered. The Delegation therefore wished to arrive at a non-exhaustive list.

693. The Chair noted the flexibility of the Delegations of Japan and the United Kingdom. He noted that he had studied the questions and answers compiled in relation to this specific item. One of the questions related to whether the proposed definition was exhaustive or non-exhaustive, and the answer provided by the Secretariat stated that, in its understanding, the list of activities and definitions proposed by the Vice-Chair rather reflected main implementation strategies than an exhaustive list of activities. The aim was not to be exhaustive but rather to provide sufficient guidance for accounting purposes required for the preparation of the Program and Budget. The illustrative nature of the list could be made clearer by introducing some language to that effect. The Chair also reiterated the request from the Delegation of Japan, on behalf of Group B, to receive specific explanations on which of the elements other delegations wished to reintroduce.

694. The Delegation of India thanked other delegations for their flexibility and stated that it would constructively engage in the discussions in order to reach an agreed definition. The Delegation requested clarification as to whether the intention was to engage in a plenary drafting exercise and finalize the decision, which could prove to be a difficult exercise. As regards the list of activities, the Delegation noted that it would be difficult to pick and choose from that list, as suggested by the Delegation of Japan, since the activities were all part of the development-related work that developing countries benefitted from. The Delegation also sought clarification as to why the Vice-Chair was proposing taking text from Annexes A and B,



text which had been previously discussed, but excluding the second sentence: “*These amounts exclude forgone revenue resulting from fee reductions*”. As had been clarified by the Secretariat, such amounts were currently not included for the purposes of testing the former Chair’s proposal and were also not part of the former Chair’s definition. The Delegation wished to know whether this would be included in the proposal by the Vice-Chair.

695. The Chair clarified that this was clearly not mentioned anywhere and requested the Delegation of India to further clarify.

696. The Delegation of India noted that the fee reductions had not been part of the calculations by the Secretariat when testing the proposed revised definition by the previous PBC Chair. The Delegation therefore enquired why this was not explicitly mentioned in the third proposal by the Vice-Chair.

697. The Delegation of Iran (Islamic Republic of) supported the statements made by the Delegations of Kenya, Brazil and India. It clarified that not reaching an agreement on a new definition would not necessarily imply that the current definition would be applied to the next Program and Budget.

698. The Chair stated that if no agreement were to be reached there would be no mandate for the Secretariat to use either of the definitions and therefore there would be no accounting of development expenditure. He stated that this was a possible outcome and therefore there was a need to be very explicit. If no agreement was reached on the new definition, the Secretariat had to be told how to account for development expenditure. One alternative would be the current definition. Another alternative would be the revised definition which was why the Committee was engaging actively in reaching an agreement.

699. The Delegation of Kenya thanked the Delegations of Japan and the United Kingdom for their flexibilities. It stated that the elements which it wished to bring back to the revised proposal were those captured in the second part of the proposed revised definition in Annex B. It would also be important to stick to what was directly achieving impact such as development of intellectual property strategies, policies and plans in developing countries, development of national regulatory frameworks that promote a balanced IP system, building state-of-the-art national IP infrastructure, developing support systems for users of IP, training and capacity building in developing countries, and promotion of innovation and creativity, technology transfer and access to knowledge. The Delegation clarified that the intention was to show that these were some of the activities which would have the greatest impact in terms of building the necessary capacity in developing countries to be able to engage fully in the IP system. This was not meant to be an exhaustive list but these activities would contribute most to achieving impact. The intention was to capture 20 per cent of activities which would lead to 80 per cent impact.

700. The Chair stated that the most important discussion regarding development would be at the time of preparing the Program and Budget for the next biennium. At that point, the Committee would be looking into and discussing the content of the various Programs and their importance and relevance.

701. The Delegation of the United Kingdom stated that it would eventually be necessary to work on a linguistic solution to clarify the non-exhaustive nature of the list of activities by inserting words like “*inter alia*”. The Delegation also stated that in case there would be no agreement on a revised definition at the current session of the PBC, the Secretariat would have to use the current definition. This was the valid definition which had been used until this point. The Delegation reiterated that it was fine with the current definition but that it was constructively engaging in the discussion to reach agreement on a new definition. It stated that currently there was a definition which the Delegation definitely wanted to keep for the next biennium as having precise and concrete information on development expenditures was in everybody’s interest.

702. The Chair suggested requesting the Vice-Chair to bring back the illustrative elements from Annex B to his proposal since this was considered important by some delegations. The Delegation of Kenya had also stated that these elements clearly indicated priorities and the Delegation of Brazil had indicated that this was at the core of what it wished to see in the definition with the explicit clarification that it was not an exhaustive list. The discussion which was still pending was the issue raised by the Delegation of India regarding the fee reductions. The Chair suggested, however, first to look at a revised proposal from the Vice-Chair, which would include the illustrative elements from Annex B.

703. The Vice-Chair (Poland) confirmed that he would provide a new version of the draft definition which would include the first element of his current proposal and a second part from the proposed revised definition in Annex B. In addition, the words "*directly*" and "*inter alia*" had to be addressed and the Vice-Chair sought clarification from the Chair on how he wished to proceed.

704. The Chair confirmed that the text should include the word "*inter alia*" in order to be complete and that "*directly*" should not be reflected since the original proposal from the Vice-Chair did not have the word "*directly*." The question from the Delegation of India would be addressed subsequently.

705. The Delegation of Japan noted that at the request of delegations the illustrative elements from the proposed revised definition in Annex B would be included in the Vice-Chair's revised proposal. Other elements, however, could also be raised at a later stage. The Delegation reiterated that it was perfectly fine with the current definition but in the interest of the Organization it would be desirable to reach an agreement during the current session of the PBC.

706. The Chair confirmed that any viability of a revised proposal would be under those terms.

707. The Delegation of Brazil stated that a revised proposal from the Vice-Chair along the lines outlined by the Chair would be a good starting point and a good basis for discussions, because the elements that the Delegation had wished to see included would be there. The Delegation stated that it would engage in the process of agreeing to a new definition, but added that it disagreed with the default option that in case an agreement was not reached the current definition would apply. The Delegation believed that the only definition which had been the result of consultations, the only middle ground, was the revised proposed definition in Annex B.

708. The Chair thanked the Delegation of Brazil for its statement which would be on record. He noted, however, that, in his understanding, there had been no decision regarding the definition in Annex B. An explicit instruction to the Secretariat would therefore be needed to provide a clear mandate. The Chair reiterated that the definition in Annex B could have been an output of a very legitimate process of consultations, but the fact remained that it was not agreed. The Chair further stated that, therefore, he did not see how it could be used as a reference.

709. The Delegation of Japan reiterated that if there were no further elements to be discussed then it agreed to request the Vice-Chair to prepare a new proposal. The Delegation stated, however, that the word "*directly*" should be deleted in the new proposal.

710. The Chair confirmed that this indeed was his understanding as well. If some delegations would still have problems with that, then a Plan B had to be put in place which would mean either no definition, the current definition and/or continue with the consultation process.

711. The Delegation of Kenya stated that in the proposed revised definition in Annex B "*directly*" was mentioned twice and it had understood that it was the first which would be deleted while the second would be kept.

712. The Chair noted that since the discussions had been based on the Vice-Chair's proposal, the only "*directly*" appearing in the text was in the first paragraph. The other "*directly*" was part of the text which was going to be included in the Vice-Chair's revised proposal and had not been questioned by delegations.

713. The Delegation of India preferred to include "*directly*" both in the first part as well as the second part. The Delegation stated that otherwise, the revised proposal would be as vague as the current definition or even as not having a definition.

714. The Delegation of Japan stated that although no delegations had raised questions about the second "*directly*" as such, the Delegation had stated that "*directly*" should be deleted from the illustrative list of activities from Annex B for sake of consistency with the first part. In case everything was brought back into the revised proposal by the Vice-Chair, then it would be just a copy of the proposed revised definition by the former PBC Chair. The Delegation stated that this could not be the basis for the discussion.

715. The Chair clarified that his intention was to have a working document which would not be any sort of pre-agreed document reflecting progress. For the sake of transparency, therefore, he requested the Vice-Chair to submit a working document for discussion including the illustrative elements from Annex B and including the word "*directly*" in brackets. He stated that if no agreement could be found, then the Committee would have to resort to Plan B with a clear discussion on what sort of mandate should be given to the Committee and the Secretariat regarding this issue moving forward.

716. The Delegation of the United Kingdom supported the statement made by the Delegation of Japan and noted that if the word "*directly*" would be reinstated then the Committee would be looking at the definition that Group B and several other delegations could not agree to. The Delegation stated that it was constructively engaging in the discussion because it thought that the Committee would be working on the Vice-Chair's proposal and the Delegation could have some flexibility on that. The Vice-Chair's proposal was a good starting point and the only basis for moving forward. Should the Committee however revert to the revised proposal by the former Chair, then the Delegation would not be in a position to show any further flexibility and the discussions could stop right away.

717. The Chair agreed with the Delegation of the United Kingdom and stated that there might not be a need for the Vice-Chair to revert with a revised proposal because basically the decision before the Committee was to adopt or not adopt the proposal contained in Annex B. Group B had stated that it could accept if the two references to "*directly*" were erased and if the expression "*inter alia*" was included in the paragraph that introduced the list. The definition would be exactly the Annex B definition excluding the two references to "*directly*" and adding the expression "*inter alia*" presumably to the illustrative list of activities.

718. The Delegation of the United Kingdom clarified that it was more the concept that it had wanted to introduce. The sentence could read: "*it is understood that the following activities should seek, inter alia, towards achieving the above impact*". The Delegation stated it would be open for any better solution.

719. The Chair read out a suggestion from the Secretariat reflecting its understanding of the discussions: "*it is understood that the following activities, inter alia, should seek towards achieving the above impact*". The Chair summarized that this was the definition on the table. He stated that it would be for the Committee to decide whether it would agree to a new definition. The Chair further clarified that the new proposal by the Vice-Chair would also include the reference to economies in transition. The new proposal was therefore basically the same as the Annex B definition, with the introduction of the reference to economies in transition, exclusion of the two references to "*directly*" and introduction of the expression "*inter alia*" after the word "activities" in the second part of the paragraph.

720. The Delegation of Brazil reiterated that there were parts of the definition that it did not agree with so if changes were going to be introduced the Delegation reserved the right to revert once it had seen the revised proposal in its entirety. The Delegation stated that it might accept the proposed changes, the exclusion of the references to “*directly*” and the addition of “*inter alia*”. It also believed that the reference to economies in transition made sense but wished to remove, in the first bullet, the reference to reducing the cost of the use of the IP system. The Delegation reiterated that it did not agree with this reference but had been willing to accept it because the proposed revised definition in Annex B had been the result of a process of consultations in which everybody had had to compromise. Were the reference to be removed, the revised proposal by the Vice-Chair would be more balanced.

721. The Chair summarized that the positions of delegations was clear. He reiterated that he had the Plan B ready which would be to continue discussions on a new definition. He urged delegations to consult on the Plan B proposal.

722. The Chair reiterated that two proposals were being considered: the revised proposal on the definition of development expenditure which had been circulated, with some sort of eventual flexibility regarding the use of words “should” or “shall”, and Plan B. The Chair reflected that, eventually, there could be a Plan C which would be saying nothing and would imply never talking about the issue of development expenditure again.

723. The Delegation of Kenya stated that delegations were still consulting on whether Plan A would be feasible. It stated that there were still outstanding issues but delegations were consulting on how these could be resolved because a closure on this issue was needed - a closure which would be meaningful.

724. The Delegation of the United Kingdom requested the Chair to provide a timeline for how long the consultations on the issue of development expenditure would be continuing. The Delegation believed that a lot of progress had been made in the current session but wished to know the timeline for trying to resolve any outstanding issues. In the case that there would still be outstanding issues after the current session, the Delegation believed that these could be resolved by the next session of the PBC.

725. The Chair clarified his intention to continue until 7 pm. In the meantime he requested the distribution of the document containing all the decisions of the PBC, except the decisions on the two pending agenda items. He noted that the document was available in all six languages. The Chair noted that only two decisions were pending, the decision regarding development expenditure and the decision regarding governance. He then requested the Delegations of Kenya, Brazil and India to clarify the status of the consultations on the development expenditure definition.

726. The Delegation of Brazil said that it was exploring an alternative with the Delegation of Japan and that, before making a suggestion, it wished to ask the Delegation of Japan whether it had had a chance to explore the idea with colleagues from its Group.

727. The Delegation of Japan said that, for the sake of transparency, it could not say anything before the idea had been put on the table.

728. The Chair asked the Delegation of Brazil if it could present the proposed idea.

729. The Delegation of Brazil said that it did not intend to be the only proponent of the idea because it had been shared among a small group. It said that the rationale for making a small change in the first bullet point was to be able to finish the definition and to refer to specific discussions that had already taken place on the specific point of cost reduction. The Delegation said that the idea was basically to put the expression “*to reduce the cost of its use*” to the end with a small caveat. The Delegation read out: “*Enabling developing countries to derive benefits from the IP system, to better protect inventions and creations around the world and in*

*accordance with the criteria established in the competent bodies, to reduce the cost of its use.*" The Delegation said that this referred back to discussions that had already taken place in bodies such as the PCT Working Group.

730. The Chair asked the Delegation of Japan whether it was now able to react now that the idea had been officially presented to the Group.

731. The Delegation of Japan said that the intervention made by the Delegation of Brazil meant that the Delegation of Brazil could not accept the current wording of the Vice-Chair's proposal as it was. Taking into account Group B's position, which the Delegation had clearly stated before in an intervention, it could accept the current wording in the Vice-Chair's proposal as it was but not substantive changes that went beyond that.

732. The Chair said that, at this stage, what he would do would be to thank delegations for their efforts and to resort to Plan B. He said that Plan B was a very clear decision that he had read out before and which he would read out again.

733. The Delegation of Kenya said that, given that the issue remaining for this particular agenda item was really a matter of a phrase, it thought that perhaps instead of deferring it to the next PBC, it could be possible to explore mechanisms for the PBC to refer it to the GA. If this was not possible, then it could be reverted to the next PBC. The Delegation thought that, given that it was a fairly minor and small issue, and given the concerted spirit of the PBC that week, the PBC could reap the benefit and see whether it could try to conquer this long-standing matter during this current year, for the GA.

734. The Chair said that he thought that all delegations were open to this and asked the Delegation of Kenya if it had any specific proposal on how this could be done because the PBC session was going to finish. He said that the decision had to be a PBC decision, or GA decision. He did not know whether the Delegation wished to send the decision to the GA, or what sort of mechanism the Delegation wished to propose.

735. The Delegation of Kenya responded that maybe the PBC could note the progress that had been achieved on this particular item and refer the issue to the GA for the GA to finalize it. By noting the progress, at least the PBC would not lose the progress that it had achieved during this particular session. The Delegation thought that the PBC could see whether it could finalize it given that it was a matter of a grey area that had come out of some decisions that had been taken in the past. The Delegation said that it would therefore be a matter of taking note of the progress and asking the GA to finalize the matter, or something close to that.

736. The Chair said that, from what he understood, this would be exactly against the specific mandate of the GA of not having something sent back to it. He said that all delegations sensed that they were very close but that the PBC was running out of time and it could not create time. He said that he did not see any "white smoke" very near.

737. The Delegation of the India said that, as the Delegation of Kenya, it thought that since the PBC was very close to the GA taking place, although it was discouraged by the Chair of the GA to refer items from the committees to the GA, as there were already a lot of agenda items there, on this agenda item, and when all delegations desired to achieve some result, the PBC should recommend to the GA to finally conclude this discussion and adopt some revised definition. It added that the GA would also have the benefit of having delegates from the capitals and maybe those who were dealing directly with the IP offices, which could be of benefit. Right now, in the PBC, there were only a few delegations that might have such consideration or guidance. This could be something that could be explored at the GA, and it would not be uncommon because some other committees that had also sent agenda items of real importance to the GA. Member States could refer matters to the GA. To its understanding, the GA Chair would not need to go against a GA ruling, i.e., that the PBC could refer this to the GA.

738. The Delegation of the Czech Republic said that it felt that this was clearly a PBC issue. It feared that, after summer with the PBC coming right at the beginning of September, not everyone had had the chance to see the GA agenda which was already quite full. The Delegation wished very much to abide by the guidance given by the GA Chair not to overburden the GA. It added that when the PBC had pushed this issue to the GA the last time, the GA had talked and talked, that it was the same people that had talked and negotiated in the GA, and that the GA had given the issue back to the PBC. In the view of the Delegation, if the PBC could not agree on what was being proposed, it could note the progress and continue the discussion at the PBC. The Delegation had quickly reviewed what had been suggested by the Delegation of Brazil. It thanked the Delegation of Brazil for trying to come with a proposal that it felt might work, but the Delegation had to say that, for the Delegation, it brought more confusion than clarity, and guessed that it would have to see what were the criteria established by the competent bodies and so on and so forth. The Delegation feared that, at 6:45 p.m. on the last day of the PBC, it was not fully in a position at that point to establish whether the proposal was workable or not.

739. The Delegation of Japan wished to reiterate the principle that considerations of the PBC should not be brought to the GA. Taking into account the current time and the fact the PBC still had another important agenda to tackle, the Delegation thought that it would be wise to go along the line of the Plan B prepared by the Chair.

740. The Delegation of Germany aligned itself with Group B and the CEBS Group. In its opinion, Group B had shown the greatest amount of flexibility, as had been stated by the Chair, for several reasons. The Delegation thought the PBC should go to Plan B, which meant that the PBC would have to deal with the issue.

741. The Delegation of Brazil said that it did not wish to revisit the arguments that had been eloquently posed by the Delegation of India. However, it did believe that the PBC was close and it did not see any reason not to defer. As the Delegation of the Czech Republic had said, the PBC did not have time now. The Delegation thought that maybe with a little bit more time it would be possible to explain exactly how the new addition would play out. It said that this might be enough because, at least when it had talked in a small group, it had made sense not to have this discussion here on the specifics about where it would be applicable or what kind of expenditure reduction would be applicable. If this discussion had already taken place in some of the groups, this was enough. The Delegation did not want to go into the details, first because all of the details were not known right now and, second, because this could be done through a small discussion to finish the definition. The Delegation therefore saw no reason why the PBC should not defer to the GA.

742. The Delegation of Iran (Islamic Republic of) believed that it was essential to resolve this long-standing issue before the next PBC. As it had mentioned before, it was difficult for the Delegation to go along with any program and budget with the so-called current development expenditure definition. The Delegation said that, as other delegations had said, the only mechanism was the GA. The Delegation thought that it would be better to defer this issue, as the last resort, to the GA to find a solution for resolving it.

743. The Delegation of the United Kingdom said that it would not come as a surprise to the Chair or any delegation in the room that it believed that the PBC had a mandate from the GA, and that the PBC had the expertise to come up with a definition on development expenditure. Therefore, this decision and this discussion should take place in this Committee. The PBC was very close and the Delegation was looking forward to resolving the definition at the next PBC, that is, PBC 23.

744. The Delegation of Algeria stated that the PBC had been tasked by the GA to look at this issue and that the PBC would have to report to the GA on the issue. The Delegation felt that the PBC was discussing a non-element, because it would still be discussed at the GA. It would

automatically be sent to the GA and would be considered. The Delegation therefore did not understand why delegations were opposed to that. It was automatic. The PBC had been requested by the GA to look at this, and had to report to the GA. It would go to the GA.

745. The Chair said that he would read Plan B, because it was very much in line with what had been said, and the PBC might make some adjustments to the paragraph regarding this issue. He said that the PBC might classify, in very positive terms, the first element if it wished to improve it. He read: “*The Program and Budget Committee (i) continued discussions on the new definition of development and expenditure in the context of the Program and Budget (ii) decided to (at this point, the Chair said that he was going to change the order of what was written here) continue informal consultations on this matter.*” He then said that there were two or three options. One was not to say anything about what the Secretariat would apply, if the PBC did not reach an agreement. The other option would be that no definition of the development expenditure would be applied for the preparation of Program and Budget for 2016/17. Another option was that the current definition would be applied for Program and Budget for 2016/17, because the PBC would have to be clear on what to instruct the Secretariat to do regarding this issue if the PBC was not able to resolve it. The Chair added that, for sub-paragraph (c), he had proposed that each of the definitions of development expenditure would be an agenda item for the 23<sup>rd</sup> session of the PBC. The Chair requested circulation of the draft decision, so that delegations could look at it and the PBC could concentrate only on this, that is, how the PBC would report to the GA.

746. Following distribution of the draft decision, the Chair proposed that, for the development expenditure item, he should prepare a Chair’s report because what he had thought could be Plan B would require some decisions on continuing discussions at the next PBC, but that he had also clearly heard some delegations say that this issue should be raised up to the General Assembly. As he saw no possibility of consensus and reaching an agreement, he proposed that the Chair’s text would say: “*The PBC continued discussions on a new definition of development expenditure in the context of the Program and Budget. Although there was a constructive engagement and some progress, no decision was reached. Some delegations proposed that the discussion should be continued at the forthcoming General Assembly, but all delegations proposed to continue discussions in the 23<sup>rd</sup> session of the PBC.*” He said that this would be the Chair’s report and that it would be part of the document that the PBC would send to the GA. The Chair did not think he would open the floor for discussions as there was no possibility for a decision.

747. The Delegation of Algeria said that, as this was factual, there was nothing to be said. The Delegation said that it just wished to add a reference to the special decision taken by the GA on this issue, which was in document WO/GA/43/22, paragraph 10. The Delegation wanted this special reference to the decision by the GA on this issue because the GA had requested the PBC to discuss this, and the Delegation thought that it was fair to make a reference to such a decision.

748. The Chair said that the PBC had a mandate from the GA. There had been constructive engagement and no decision had been reached. He saw no problem in introducing the Delegation of Algeria’s suggestion. He added that he was taking full responsibility, and that he was trying to be factual in summarizing the discussion. He thanked all delegations for their constructive engagement and said that he hoped that when the PBC would tackle this issue next time, it would see some “white smoke”. With that, he encouraged delegations to continue consultations and not wait for the next PBC because, if the next PBC could start with an agreement, this could just be gavelled. He therefore wished to encourage continued dialogue.

749. The Chair’s summary: The PBC, in accordance with the mandate given by the WIPO General Assembly at its 43<sup>rd</sup> session (document WO/GA/43/21), engaged in constructive discussions and, while no decision was reached, made some progress on this topic. The discussions were based on the annexes of document WO/GA/43/21 and the proposal of the

Vice-Chair to combine elements of the definitions in those annexes. Future discussions could take into account the previous proposals, the texts circulated and the ideas and suggestions expressed during the plenary session.

### **ITEM 23    PROGRESS REPORT ON THE PROJECT TO UPGRADE SAFETY AND SECURITY STANDARDS FOR THE EXISTING WIPO BUILDINGS**

750. Discussions were based on document WO/PBC/22/13.

751. The Chair informed the meeting that this document provided an update on the “Project to Upgrade the Safety and Security Standards for the Existing WIPO Buildings” since the presentation of the previous report in September 2013.

752. The Secretariat reported that this was a standard annual report which reported on the progress of the Project. The perimeter security and other security aspects related to this Project were nearing completion. The Secretariat recalled that the Project was co-funded by the Host Country and expressed gratitude for this. The Secretariat reported that the Project was within budget and would hopefully be completed by the end of fall 2014.

753. The Delegation of Mexico thanked the Secretariat and particularly wished to note the fact that the conclusion of the Project was very near and the Delegation hoped it would indeed be concluded successfully within the budget agreed to and authorized by Member States. The Delegation would keep watch for the publication of the final report once the Project was concluded. The Delegation also hoped that lessons would be learnt from the execution of the Project. These would include, but not be limited to, how to best manage projects of this nature. The Delegation hoped that a report could be made again to the PBC, as was done in the 18<sup>th</sup> session of the PBC, on the technical aspects, and other aspects which were not looked at initially, and which had led to some quite major modification and adjustments in the course of the implementation of the Project.

754. The Secretariat confirmed that this information would be shared, in the paragraphs relating to lessons learned from the execution of the project, in the final report on the Project once it was completed, particularly as this was a joint effort with the Host Country.

755. The Chair put forward the decision paragraph proposed for this agenda item, which was adopted.

756. The Program and Budget Committee took note of the Progress Report on the Project to Upgrade the Safety and Security Standards for the Existing WIPO Buildings (document WO/PBC/22/13).

### **ITEM 24    PROGRESS REPORT ON THE CONSTRUCTION PROJECTS**

757. Discussions were based on document WO/PBC/22/14.

758. The Secretariat introduced the progress report by recalling that the New Conference Hall Project (NCHP) included the New Hall *per se* (together with the interpretation booths and the audio-visual control room), in which the PBC session was being held, as well as the following other areas: the new Access Center to the WIPO Campus (open since August 4, 2014), the enlarged AB Building lobby, a series of new small meeting rooms in the AB Building mezzanine, and several renovated areas in the basement (already in use). The foyer just below the new hall would be completed on time for the Assemblies: it included a press room, an Internet room, a document counter and related facilities to service meetings. The Secretariat highlighted that it had been able to reach an amicable and final closure with the formal General Contractor (GC)



on August 26, 2014, on the basis of the July 2012 amicable termination agreements of the initial contracts with that contractor, and that this final closure had been achieved without having to resort to legal or conflict resolution mechanisms. As a consequence, WIPO held sufficient funds to cover the costs for substitution works for the New Building, and the former GC had paid to WIPO the final balance due on the NCHP. The progress report on the New Construction Project included operational details for both the corrective or finishing works completed since September 2013, and for the works remaining to be done until the end of 2015. The progress report on the NCHP included operational details for both works already completed and works remaining to be completed. The Secretariat indicated that an amount of up to 400,000 Swiss francs was needed in order to complete the remaining items for the New Construction Project, which had been initially expected to be covered by the penalty for delay paid by the former GC and since recognized as “miscellaneous income”. As to the budget and financial situation of the NCHP, as of the end of July 2014, the level of expenditure remained within the total revised budget envelope of 72.7 million Swiss francs as approved by the Member States in 2011. As the Project was nearing completion, the closing of all accounts with the 70-odd contractors started showing that additional funds might be needed in order to cover the additional costs caused by three main factors: (i) in respect of several contracts based on a quantity survey, certain contractors have indicated that the actual quantities used for a number of materials were much higher, up to 40 per cent higher, than had been originally expected when they made their initial offers between 2010 and 2012; (ii) the delays caused by insufficient interdisciplinary coordination by the various professional firms on-site; and (iii) the fact that some companies experienced difficulties in responding in a flexible, coordinated and timely manner to the demands placed on them, thereby causing additional work schedule delays on-site (this was largely due to the fact that these companies had taken over commitments elsewhere, since they had not anticipated having to stay on-site beyond Spring 2014). As a consequence, a request for additional funding for up to 2.5 million Swiss francs in order to close all accounts by 2015 was presented to the PBC. The Secretariat noted that, according to available benchmarks for major construction projects of comparable nature and scope, a complementary budget in the order of 3 to 5 per cent of the initially approved budget was not unusual at the time of closure. The amount of 2.5 million Swiss francs which was requested represented about 3.44 per cent over the 2011 total revised approved budget envelope of 72.7 million Swiss francs. The Secretariat stressed that it would carefully review all the accounts with the contractors with due regard to the above points, in particular in order to establish the share of responsibilities between the various contractors, architects and engineers and the consequential sharing of the additional costs between them for part or all of the additional costs. The Secretariat would do its utmost to minimize as far as possible the required utilization of the additional resources needed. The Secretariat would report to the PBC and the Assemblies the results of its review, the lessons learned and the status of the final accounts. The Secretariat concluded by highlighting that, when taking the two projects together and when considering the savings that were surrendered in 2012, as well as the penalty for the delay which accrued to the “miscellaneous income”, the resulting resource needs showed an estimated overall increase for both projects in the order of 675,000 Swiss francs, as illustrated by the table annexed to document WO/PBC/22/14.

759. The Delegation of Mexico thanked the Secretariat for its presentation of the progress report on both projects. It took note of the update on the negotiations conducted by the Secretariat with the former GC, which were concluded by a final closure for both projects. The Delegation also took note of the reasons for the delays and for the budget situation for the NCHP, indicating that construction projects often ran the risk of cost overruns, despite efforts to keep them within the budget envelope, in particular for projects of the size of the NCHP. The Delegation understood that it had been difficult, in the circumstances of the Project implementation, to avoid such cost overrun. It stated that it had taken careful note of the request by the Secretariat to seek approval for an amount of up to 2.5 million Swiss francs in order to close the accounts, and that these funds would be drawn from the reserves. The Delegation appealed to the Secretariat to do everything possible to protect the interests of the Organization and to draw as little as possible from the reserves. The Delegation concluded that

it was looking forward to a future constructive and more comprehensive discussion of the lessons learned as a result of the construction projects experience at hand.

760. The Chair read out the proposed decision in respect of agenda item 24. There were no comments and the decision was adopted.

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

- (i) to take note of the contents of the Progress Report on the New Construction Project and New Conference Hall Project (document WO/PBC/22/14);
- (ii) to approve the proposal to authorize, in favor of the New Construction Project, the appropriation from the reserves of an amount of up to 400,000 Swiss francs (paragraphs 10 to 15 of document WO/PBC/22/14); and
- (iii) to approve the proposal to authorize, in favor of the New Conference Hall Project, the appropriation from the reserves of an amount of up to 2,500,000 Swiss francs (paragraphs 16 to 21 of document WO/PBC/22/14).

## **ITEM 25    PROGRESS REPORT ON THE IMPLEMENTATION OF AN ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM IN WIPO**

762. Discussions were based on document WO/PBC/22/15.

763. The Chair invited the Secretariat to introduce this agenda item.

764. The Secretariat presented the following progress report. The Enterprise Resource Planning (ERP) portfolio of projects had been approved by the Member States in September 2010. It encompassed the implementation of a comprehensive integrated ERP system which covered all areas of administration and management, in particular with a focus on improving the efficiency, productivity, and service orientation of WIPO's administrative and management processes. The Secretariat explained that support for WIPO's results-based management approach was at the heart of the ERP portfolio implementation, driving all projects throughout the implementation period. The Secretariat added that the ERP portfolio endeavored to improve the quality of the information provided to Member States, stakeholders and management. One of these improvements included enhancements made to the program performance report, which had been presented to the Member States for their consideration earlier in the week. Several delegations expressed their appreciation at the improved quality of the information provided and encouraged the continued provision of this quality of information. Other improvements in the information provided were related to the quality of the results-based budgeting and reporting, which had been made possible through the deployment of the ERP portfolio. The Secretariat explained that the current report complemented the report presented in September last year. Some achievements of the ERP portfolio included the financial systems upgrade, the new HR and successful go-live of the payroll system, as well as the development and deployment of business intelligence capabilities. The Secretariat specified that ERP's required a lot of data to be captured, but that it was the ability to provide very good structured information to both management as well as stakeholders that made the ERP particularly interesting and advantageous. This was an area of particular focus. The biennial planning application had been deployed, providing support for the budget which had been reviewed and approved by Member States last year. Workplanning applications, which ensured that work undertaken by programs was planned and executed in accordance with the results and indicators that had to be achieved, had also been deployed. The Secretariat added that there was a formal process of reviewing and approving these workplans by the Director General. In the current biennium, implementation monitoring tools would be deployed so as to make it possible to focus on better assessing the progress made towards the achievement of the results

and performance indicators. In accordance with best practices for project management, and at the time that the ERP portfolio had been proposed to the Member States, an independent verification and validation (IV&V) of the portfolio was proposed mid-way through the implementation. This had been undertaken and the consultants, leaders in the field of ERP implementations, had provided a number of very useful recommendations. At the last meeting, in September 2013, when the last progress report was presented to the PBC, at least one Delegation had asked the Secretariat to share the results of this IV&V. Accordingly, the Secretariat specified that it had attached the recommendations to the report and that all of these had actually been implemented. During the ERP portfolio new opportunities had been identified, added the Secretariat, including the introduction of an enterprise risk management tool to support the significant progress in implementing risk management and strengthening controls. The Secretariat added that it would not be sustainable to attempt to do this without IT tools in the long run. Accordingly, a tool had been selected and would be deployed in the course of the next few months. The Secretariat further specified that: (i) during 2015, the human resource and financial systems would be upgraded to the latest versions in order to allow WIPO to take advantage of all the functionality and opportunities available in these new products; (ii) budget utilization was being monitored closely. Governance had been strengthened in accordance with different IV&V recommendations and budget utilization was commensurate with progress and scope delivery. At the end of May, approximately 12 million Swiss francs out of the total budget of 25 million Swiss francs that had been approved by Member States had been spent. The small delay in the HR deployment had affected other related projects, resulting in an extension of the timeline for the portfolio of projects with no change to the overall budget that had been approved by the Member States. The Secretariat also specified that, when defining timelines, the capacity to deliver and the availability of the teams responsible for the different business processes were key factors so as to be able to absorb and embed the changes involved in the process.

765. The Delegation of Canada highlighted that paragraph 24 (budget utilization) showed that an amount of 16.4 million Swiss francs had been utilized, whereas the Secretariat had just mentioned a figure of 12 million Swiss francs, implying that an amount of four million Swiss francs had been incurred for expenditure in one month. The Delegation asked the Secretariat to confirm that despite the delay, the budget would be respected.

766. In response to the questions raised by the Delegation of Canada, the Secretariat confirmed that the budget stated in the report was 12 million Swiss francs as at May 31, 2014, and that the amount of 16 million Swiss francs was the estimated expenditure by the end of 2014. The Secretariat also confirmed that the overall budget envelope would remain at 25 million Swiss francs, as approved by the Member States in 2010, even with the foreseen extended timeline.

767. As there were no further comments, the Chair read out the proposed decision paragraph, which was adopted.

768. The Program and Budget Committee took note of the Progress Report on the Implementation of an Enterprise Resource Planning (ERP) System in WIPO (document WO/PBC/22/15).

## **ITEM 26    PROGRESS REPORT ON THE INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) CAPITAL INVESTMENT PROJECT**

769. Discussions were based on document WO/PBC/22/18.

770. The Chair explained that document WO/PBC/22/18 provided an update on the progress of the ICT investment project as compared to the situation presented to the previous PBC of September 2013. He invited the Secretariat to introduce this progress report.

771. The Secretariat recalled that at its 49<sup>th</sup> Series of Meetings (September 26 to October 5, 2011) the Assemblies of the Member States of WIPO had approved the Capital Investment Proposal for Funding of Certain Information and Communication Technology (ICT) Activities (document WO/PBC/18/13), including the following: ICT related facilities for the New Conference Hall (NCH), its annexed meeting rooms and the other meeting rooms in the WIPO premises; Replacement of obsolete Nortel Meridian telephone exchange; and Replacement of the desktop computers. At its 21<sup>st</sup> session (September 9 to 13, 2013) the PBC had been updated on the progress of this project (document WO/PBC/21/14). The present report provided the Member States with an update of the progress report presented to the 2013 Assemblies. In closing, the Secretariat highlighted that replacement of the obsolete desktop computers had been completed by the end of 2013. There had been no change in project scope and all the main business activities had been achieved as originally planned. The Secretariat added that the document also provided a detailed table on the budgets and actual expenditures.

772. There were no comments on this agenda item. The Chair read the proposed decision text, which was adopted.

773. Program and Budget Committee took note of the Progress Report on the Information and Communication Technology (ICT) Capital Investment Project (document WO/PBC/22/18)

## **ITEM 27    PROGRESS REPORT ON THE IMPLEMENTATION OF WIPO LANGUAGE POLICY**

774. Discussions were based on document WO/PBC/22/16.

775. The Chair opened agenda item 27: Progress Report on the Implementation of WIPO Language Policy and requested the Secretariat to introduce document WO/PBC/22/16.

776. The Secretariat recalled that, at the 49<sup>th</sup> Series of Meetings of the Assemblies of the Member States of WIPO in 2011, it had been agreed that language coverage for documentation for meetings of the WIPO Committees, Main Bodies, core and new publications should be progressively extended to all six United Nations (UN) official languages and that the cost of language coverage for Working Group documentation should be assessed in the light of the experience gained during the 2012/13 biennium and in the context of the Program and Budget for 2014/15. Document WO/PBC/22/16 provided the Member States with an update of the progress report on the language policy presented to the 2013 Assemblies.

777. The Delegation of Paraguay, speaking on behalf of GRULAC, welcomed the information provided on the savings made as a result of rationalization measures. GRULAC called on WIPO to translate the revised versions of the international classifications into Spanish, including the Nice, Locarno, Vienna and International Patent Classifications. It was important to monitor the quality of translations and to obtain direct feedback from Member States concerning the implementation of the language policy by means of a survey.

778. The Delegation of China welcomed the fact that the Patent Cooperation Treaty (PCT) Working Group and the Hague Working Group were now using the six official languages of the UN System and called on the Secretariat to establish a clearer schedule for the extension of the language policy to all the Working Groups and all working documents, while taking cost effectiveness into consideration.

779. The Delegation of Argentina endorsed the statement made by the Delegation of Paraguay on behalf of GRULAC, and fully supported both the principle of multilingualism and the equal treatment of all six official languages of the UN System. The Delegation emphasized the positive effect and need for the continued implementation of rationalization and control

measures, which had led to a reduction in the total number of words translated in 2013 and related costs. Although the practice of outsourcing translation work could result in significant cost efficiencies, it was essential to ensure that quality was maintained.

780. The Delegation of Canada noted the positive impact of the rationalization and control measures regarding translation, the cost efficiencies of 2.2 million Swiss francs and the fact that, despite an increase in the workload of 35 per cent, the cost of outsourcing translation work had fallen by 22 per cent.

781. The Delegation of Chile endorsed the statement made by the Delegation of Paraguay on behalf of GRULAC and stated that, in accordance with paragraph 10 of document WO/PBC/22/16, it was important that translations of documents be published in a timely manner and be of a certain quality in order to allow the Member States and all other interested parties to access and examine information. Furthermore, steps should be taken to extend six-language coverage to the WIPO web site as soon as possible, in accordance with paragraph 18 of document WO/PBC/22/16.

782. The Delegation of Mexico endorsed the statement made by the Delegation of Paraguay on behalf of GRULAC and emphasized the importance of maintaining the quality of translations.

783. The Delegation of Spain welcomed the reduction in translation costs *per page* and expressed the hope that further savings would be made through the use of computer-assisted translation and terminological tools. Documents that were slightly longer than 10 pages should be translated into all six languages in order to ensure equal treatment for all delegations. The Delegation stressed that the PBC, rather than the PCT Working Group, was the sole appropriate forum for any discussion on the provision of verbatim reports. Finally, as well as focusing on cost efficiencies, the decision paragraph should contain a reference to the importance of maintaining the quality of translations and interpretations and the early availability of documents in the official languages.

784. The Chair requested the Delegation of Spain to provide specific wording in that regard.

785. The Delegation of Mexico referred to the situation that had previously arisen within the PCT Working Group concerning the provision of verbatim reports in English only and requested the Secretariat to inform the various WIPO bodies that the PBC was currently discussing the WIPO-wide language policy and was the competent body in that regard.

786. The Secretariat said that six-language coverage had been extended to all the WIPO Main Bodies and Committees, as well as to the PCT Working Group and the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs. In 2015, coverage would be extended to include the Working Group on the Legal Development of the Madrid System for the International Registration of Marks, the IPC Revision Working Group; and the Working Group on the Digital Access Service for Priority Documents. Coverage would be extended to the remaining Working Groups during the following biennium. Although the amount of work outsourced had risen from 38 per cent for the 2010/11 biennium to 56 per cent for the 2012/13 biennium, steps had been taken to ensure that document quality was maintained, including quality control measures concerning accuracy, comprehensibility, completeness, terminological correctness, readability, style and usability. Costs had been brought down significantly through the practice of outsourcing work to translation agencies. That approach had initially been taken with regard to two languages and would be extended to cover a third language in the near future. As to rationalization and control measures, the translation workload had been reduced by 18 per cent between 2012 and 2013 and the 10-page limit on the length of WIPO documents had been implemented. However, that restriction did not apply to *verbatim* reports of meetings, which were, on average, 175 to 200 pages in length. Such reports would be made available in all the UN languages for those Main Bodies, Committees and Working Groups benefitting from six-language coverage. Documents that marginally exceeded the 10-page limit were made available in all six languages. However, in

the case of lengthy documents, the executive summary was translated into all the official languages, with the original document being made available only in the language in which it had been prepared.

787. The Chair said that a draft decision paragraph had been prepared and that the Delegation of Spain had a proposal slightly amending the final part of that text. The Chair then read the draft decision paragraph: *“The Program and Budget Committee took note of the Progress Report on the Implementation of WIPO Language Policy (document WO/PBC/22/16), and: (i) acknowledged: (a) the enhanced rationalization and control measures implemented to limit the increase in the translation workload; (b) the cost efficiencies achieved; (c) the increased share of outsourcing while ensuring quality of translation; and (ii) urged the Secretariat to continue its efforts in this regard and report back to the PBC thereon in the context of the Program Performance Report for 2014.”* The Chair then read out the two proposals made by the Delegation of Spain: *“(ii) urged the Secretariat to continue its efforts in this regard while at the same time to continue its efforts to maintain a high-level, quality service and early availability of documents in official languages and report back to the PBC thereon in the context of the Program Performance Report for 2014.”* and *“(ii) urged the Secretariat to continue its efforts in this regard without compromising the quality of translations and interpretations and the early availability of documents in all official languages and report back to the PBC thereon in the context of the Program Performance Report for 2014.”* The Chair asked those present which of the two proposals they preferred.

788. The Delegation of Spain pointed out that, of the two proposals it had made, the first was more positive in that it encouraged the Secretariat to maintain the existing high-level quality service and to continue to ensure that documents were made available in all six languages as soon as possible.

789. The Program and Budget Committee took note of the Progress Report on the Implementation of WIPO Language Policy (document WO/PBC/22/16), and:

(i) acknowledged:

(a) the enhanced rationalization and control measures implemented to limit the increase in the translation workload;

(b) the cost efficiencies achieved;

(c) the increased share of outsourcing while ensuring quality of translation; and

(ii) urged the Secretariat to continue its efforts in this regard, while at the same time continuing to maintain high quality service and early availability of documents in the six United Nations languages, and report back to the PBC thereon in the context of the Program Performance Report for 2014.

## **ITEM 28 PROGRESS REPORT ON PROJECTS UNDER THE CAPITAL MASTER PLAN**

790. Discussions were based on document WO/PBC/22/21.

791. The Chair stated that document WO/PBC/22/21 provided a progress report on the seven projects under the Capital Master Plan (CMP) approved by the WIPO Assemblies in 2013 for an estimated amount of 11.2 million Swiss francs from reserves. He invited the Secretariat to introduce this agenda item.



792. The Secretariat recalled that the 51<sup>st</sup> session of the Assemblies had endorsed the principles under which projects were included in the organization's CMP and had approved funding for a total amount of 11.2 million Swiss francs for seven key projects as described in document WO/PBC/22/21. The progress report provided an overview of the progress made to date with respect to the CMP projects. Efforts to date had primarily focused on the establishment of a robust governance structure, in line with that implemented for the management of the ERP projects, duly incorporating lessons learned, to reinforce clear leadership and consistency across projects, and on addressing issues identified by the IAOC. Those included the implementation of changes proposed to enhance planning and reporting to provide increased transparency of cost estimates and clear links to organizational strategies. These changes would become visible to Member States in subsequent updates of the CMP. Specific substantive progress reports on the implementation of the individual approved projects would also be provided.

793. The Delegation of Spain, recalling the decision taken by the PBC the previous year, expressed its satisfaction with the progress report but noted a lack of detailed cost forecasts and cost-benefit analysis of the proposed projects. The Delegation had expected the document to include information on savings identified in the mid and longer term and looked forward to receiving information on the link between the use of reserves for the implementation of the CMP and savings that had been made representing an equivalent value. The Delegation had hoped to have a clear idea of the benefits which were going to be obtained thanks to the measures taken and to receive information about savings made.

794. The Delegation of the United Kingdom welcomed the establishment of a project portfolio board and looked forward to its work. It assumed that the portfolio board would also deal with interdependencies and capacity issues across the portfolio. Regarding the suggestions made by the IAOC, the Delegation noted that the project cycles did not always fit neatly into the meeting schedules and agreed with the IAOC that it would be helpful to see the key assumptions that were driving the CMP from a strategic and business point of view. This would require an identification of key milestones and success criteria and it looked forward to the delivery of tangible benefits. The Delegation would also welcome a more specific cost benefit analysis and, ideally, being provided with benefit realization plans.

795. The Delegation of Canada supported the statements made by the Delegations of Spain and the United Kingdom. It welcomed the establishment of the governance structure and fully agreed with the IAOC's recommendations which addressed some of the concerns that the Delegation had expressed the previous year regarding the clarity of the CMP. It would therefore welcome additional information from the Secretariat as to how the IAOC recommendations were being addressed.

796. The Delegation of Mexico noted the governance structure and was pleased to see that changes and improvements had been made. It observed that the IAOC suggestions had been reflected resulting in greater transparency in the way that project costs were presented. The Delegation also stressed the importance of having a clear linkage between the CMP projects and WIPO institutional structures. It further noted that two essential things were missing from the progress report which had been requested by the PBC the previous year namely additional information on savings made on approved projects and detailed overview of project costs which could be compensated for by the savings. The PBC had also requested to see how the link with the regular budget could be better reflected, particularly by implementing the IAOC recommendations on the travel policy and use of cash flows. The Delegation had thought that this would result in less money being used from the reserves. The Delegation recalled the reference made to two million Swiss francs supposed to be accounted for from savings, meaning that it would not have to be taken from the reserves.

797. The Delegation of Japan recalled that the 21<sup>st</sup> session of the PBC had requested the Secretariat to report on savings generated, including through improved treasury management,

and details on the depreciation and capitalization of expenditure related to the projects. The Delegation had taken note of the fact that it was difficult to distinguish savings related to the projects from other savings regarding the regular budget and to report those separately. Keeping this difficulty in mind, the Delegation requested the Secretariat to report savings in a quantitative manner given the overall context of savings in general. It also stressed that those savings should be pursued throughout the process of implementation of the CMP in compliance with the decision of the previous session of the PBC.

798. The Secretariat explained that one of the reasons that the projects had not made much progress was because the Secretariat had focused on addressing the very issues raised by the IAOC and Member States. Regarding governance, a much more strengthened governance structure had been established for all the projects identifying project boards and the manner in which project managers would report to the project boards. The establishment of the governance structures had taken some time. The Secretariat however assured Member States that all its requests and recommendations from the present and previous meetings would be complied with. The IAOC recommendations had been extensively discussed with the IAOC in March when the Committee had given the Secretariat clear guidance on how to improve the CMP. At the IAOC session in August, the Secretariat had gone back to the IAOC with plans of how the recommendations would be addressed. The timing of the discussions with the IAOC had not allowed these improvements to be incorporated into the documentation for the present session of the PBC. The IAOC had nevertheless expressed its appreciation with the efforts made and the way in which all their recommendations had been taken on board. The Secretariat was still working on the cost benefits analysis of the projects themselves and the benefit realization plans. Benefit realization would be the center of attention through the strengthened governance structure and these would be reported to Member States in subsequent progress reports. Savings resulting from the implementation of the projects could be estimated. However, such savings had to be realized before being able to report on them, i.e., after the projects had been implemented and were in stable operation. This would require time and only at the end of the projects would one be able to actually review actual savings since measuring savings was not an easy matter. Regarding the encouragement by the PBC to reduce the need for using reserves for the projects the Secretariat stressed that it was placing great emphasis on strengthening financial management and it believed that this was very much the direction in which it wanted to go. The Secretariat, in this context, clarified that savings made in one financial period would go into the reserves and therefore were not available, at that point in time, to be accrued to the projects. The current estimated project budgets were therefore what the Secretariat believed would be needed for the implementation of the projects. However, as the Secretariat was making savings and financial periods were being closed, those savings would automatically be going into the reserves and would be reported as such. The process was therefore a mechanical process where savings in one period would be available for use, in accordance with Member States' decisions, in future periods.

799. The Delegation of Spain thanked the Secretariat for its explanations. It hoped that following year, once savings and surpluses would be known, further progress on this issue could be made. It noted that it would be very interesting for Member States to see the full extent of savings compared to the actual expenditure on the projects. It would also be helpful for Member States to be informed about whether specific measures had been taken in response to the recommendations in the treasury study and those made by the internal auditors.

800. The Chair read the decision paragraph on agenda item 28: *"The Program and Budget Committee took note of (i) the governance structure set up to manage, oversee, and report on the implementation of the portfolio CMP projects (document WO/PBC/22/21), and (ii) the ongoing dialogue with the IAOC and the planned enhancements to the presentation of the CMP (document WO/PBC/22/21)."*



801. The Delegation of Spain requested the Secretariat to confirm that the progress report next year would have all the additional information requested during the current and previous sessions of the PBC.

802. The Secretariat confirmed that next year's report would include all the elements which had been requested.

803. There were no further comments and the decision paragraph was adopted.

804. The Program and Budget Committee took note of:

(i) the governance structure set up to manage, oversee, and report on the implementation of the portfolio Capital Master Plan (CMP) projects (document WO/PBC/22/21); and

(ii) the ongoing dialogue with the Independent Advisory Oversight Committee (IAOC) and the planned enhancements to the presentation of the CMP (document WO/PBC/22/21).

## **ITEM 29 LIST OF DECISIONS**

805. The Chair referred to draft document WO/PBC/22/29 containing the list of decisions taken during the session. He noted that the document excluded the text of the decision on item 7, which had only been taken late that afternoon (and which had been distributed separately) and the Chair's summary on items 20 and 22. He added that all decisions had been duly gavelled, therefore there was no need to gavel them again in the document.

806. The Delegation of Algeria requested confirmation that all of the decisions had indeed been gavelled.

807. The Chair responded by saying that he had been very careful with observing the procedure and confirmed that he had read out the text and gavelled every single decision taken. He added that if the Delegation so wished he could gavel them again.

808. The Delegation of Algeria wished to make a short statement regarding the decision on item 19 and requested that it be reproduced *verbatim* in the session report. The Delegation stated that it had a specific interpretation of paragraph 1 of that decision, which said that the PBC recognized the importance and the value of the participation and contribution of representatives of accredited indigenous and local communities in the work of the IGC. The Delegation saw this text as a recognition of the largest contribution to a negotiation, it did not mean that the Delegation recognized them as a beneficiary of the outcome of such negotiations.

## **ITEM 30 CLOSING OF THE SESSION**

809. Before closing the session, the Chair thanked delegations for their collaboration and for dealing with the difficult agenda items very professionally. He also thanked the two Vice-Chairs who had been the protagonists in the week's work. He commented that although Members could not see the "white smoke" regarding the issues they tackled, everybody recognized the tremendous progress made in those discussions.

810. The Delegation of Nigeria wished to thank the Chair for the manner in which he steered the discussions of the Committee. The Delegation felt that, in the Chair's summary, the Chair should nonetheless indicate that substantial progress had been made. It emphasized that this advancement should not be disposed of, and that Members should build up on what they had achieved so far.

811. The Chair confirmed that his intention was to add the text exactly along those lines, in hope that it would be that way.

812. The Delegation of Japan thanked the Chair, the Vice-Chairs, the interpreters, and the Secretariat. It underlined that it was impressed with the Chair's guidance and well-structured leadership, and for that it wished to present the Members' sincere gratitude to the Chair.

813. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, thanked the Chair and the Vice-Chairs, the Secretariat, the interpreters, and all the colleagues for the work done during the session.

814. The Delegation of the Republic of Korea, speaking on behalf of the Asia and the Pacific Group, extended the Group's warm appreciation to all Member States, to the Chair for his able leadership, to the Vice-Chairs for their contribution, as well as to the IAOC members.

815. The Delegation of China wished to express its sincere thanks to the Chair for his excellent leadership and to the two Vice-Chairs for their efforts during the five-day meeting. The Delegation was deeply impressed by the Chair's leadership and highly efficient organization. It was certain that all Members agreed that the timing had been followed strictly over the last five days: meetings had ended by 1 p.m. and 6 p.m. The Delegation hoped that the same routine would be followed in the future.

816. The Delegation of Kenya, speaking on behalf of the African Group, thanked the Chair and the two Vice-Chairs for the work done in leading the Committee's work during the week. The Group was deeply appreciative of the efficient manner in which the Chair had guided the meeting. The African Group also thanked the Secretariat for making itself available as well as for the preparations of the session and the support given to Member States throughout. The Group also thanked the interpreters for the good work they had done as well as other colleagues for the cooperative spirit they had shown. While the Committee could not finish and agree on all of the agenda items, it had done a good job in terms of trying to be as constructive as possible. The African Group hoped that the constructive spirit would continue in the future.

817. The Chair declared the session closed.

[Annex follows]